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ABSTRACT

The report reviews the administration of the Federal Coal Mine Health and Safety Act of 1969 with respect to coal workers' pneumoconiosis (black Lung) and analyzes the results. The objective of establishing and maintaining cleaner air in the mines has been substantially achieved by the Bureau of Mines inspection system. The second, which provided that an afflicted, but not disabled, miner could transfer to a job in clean air, has been used sparingly by the miners. The third, which provided for Federal benefits for miners fully disabled by black lung (and for widows and orphans) has been highly successful in numbers of beneficiaries. As of October, 1972, about 88,000 miners and 87,900 widows and orphans were receiving benefits. In 1972 Congress amended the legislation to extend the benefits to other lung diseases, and another 23,800 miners qualified on that basis, with the processing still incomplete by December 1972. On July 1, 1973, the Federal program becomes the responsibility of the Department of Labor for a transition period with benefit payments charged back to the industry. On January 1, 1974, the program is to be returned to the States under workmen's compensation laws subject to Federal standards. (Author/KM)

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THE HEALTH-IMPAIRED MINER UNDER THE BLACK LUNG LEGISLATION

This report was prepared for the Manpower Administration, U.S. Department of Labor, under research and development contract No. 82-11-71-32. Since contractors conducting research and development projects under Government sponsorship are encouraged to express their own judgment freely, this report does not necessarily represent the official opinion or policy of the Department of Labor The contractor is solely responsible for the contents of this report.

March 1973

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THE HEALTH-IMPAIRED MINER UNDER THE BLACK LUNG LEGISLATION

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The report reviews the administration of the Federal Coal Mine Health and Safety Act of 1969 with respect to coal workers' pneumoconiosis (black lung) and analyzes the results in terms of the objectives of the legislation. The objective of establishing and maintaining cleaner air in the mines has been substantially achieved by the Bureau of Mines inspection system. The second, which provided that an afflicted, but not disabled miner could transfer to a job in clean air, has been used sparingly by the miners. The third, which provided for Federal benefits for miners fully disabled by black lung (and for widows and orphans) has been highly successful in numbers of beneficiaries. As of October 1972 about 88,000 miners were receiving benefits and 87,900 widows and orphans. In 1972 Congress amended the legislation to extend the benefits to other lung diseases and another 23,800 miners qualified on that basis, with the processing still incomplete by December 1972. On July 1, 1973, the Federal program becomes the responsibility of the Dept. of Labor for a transition period with benefit payments by the Dept. charged back to the industry. On January 1, 1974 the program is to be returned to the States under workmen's compensation laws subject to Federal standards.

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THE HEALTH-IMPAIRED MINER UNDER THE BLACK LUNG LEGISLATION

A Summary

One basic objective of the Federal Coal Mine Health and Safety Act of 1969 was the protection of coal miners and their families from occupational diseases, specifically, pneumoconiosis or "black lung". This disease is caused by the miner breathing coal dust into his lungs while working in underground mines.

The 1969 Act contained three specific provisions for the protection of the mine population from black lung. The first of these established mandatory health standards for the maintenance of clean air in all underground mining, with the objective of eliminating black lung as an occupational disease of coal mining.

This objective is being substantially achieved. The U.S. Bureau of Mines reports that 93 percent of the mines have been certified as complying with the standards for clean air, and the Bureau is pursuing the goal of 100 percent.

A second provision of the Act offers to the working miner whose X-rays disclose the existence of black lung the opportunity to transfer to less dusty jobs in the mines where the air is sufficiently clean to prevent further progressing of the disease.

This option has been of minor importance so far. Out of more than 3,700 working miners whose X-rays have shown some degree of black lung only 650 had requested transfers by the end of January 1973.

The third objective of the legislation was to provide benefits for miners totally disabled by black lung, either currently or in the past, as well as for the widows and orphans of miners who suffered from black lung prior to their deaths.

This objective has been fully achieved, and has been expanded beyond the original concept. As of October, 1972 a total of 88,100 miners were drawing black lung benefits under the program administered by the Social Security Administration of the Department of Health, Education and Welfare. A total of 87,900 widows and orphans were also drawing those benefits.

This feature of the 1969 Act was expanded by the Black Lung Benefits Act of 1972. Congressional action modified the original act in three respects: (1) requiring further tests than X-ray for the determination of black lung; (2) widening the scope of the benefits to include all lung diseases; and (3) enlarging the eligible population by including all miners who had 15 years of experience in coal mining, either in underground or surface mining.

The Social Security Administration is now engaged in re-reading the X-rays of those who were previously denied. As of October 1972 a total of 23,800 miners were awarded benefits from this group, and the review is still in process.

When the black lung problem becomes the responsibility of the State Workmen's Compensation agencies in January 1974, the backlog of the afflicted population -- miners, widows and orphans -- will have been awarded black lung benefits for which the Federal government assumes responsibility. The benefits are paid out of general revenue; they have totaled about $1 billion through 1972 and have been estimated at $8 billion through 1980.

There have been three important by products of the two pieces of black lung legislation. First, total disability as applied to a black lung miner means disability for work in the mines, but not for work in other industries; he may hold jobs outside of mining if he is able to do so.

Second, the dividing line between an occupational disease and other diseases has been blurred. Pneumoconiosis is strictly a coal miner's disease derived only from coal dust; other lung diseases, such as asthma, tuberculosis, or emphysema, can be acquired in coal mining, but they can also develop from other causes not connected with work.

Third, a black lung beneficiary may combine a number of different benefits without having to accept offsets. Black lung benefits are still offset (reduced) by workmen's compensation payments. But they are not reduced by a miner's pension, by Social Security Old Age Benefits or by earning on a job below $2,100 a year.

Scarcely any working miners have shown an interest in leaving coal mining for work in other industries. High wages are an important motivation for staying in the industry; wages in coal are among the highest in the economy.

Beyond that, there are fringe benefits which tie the coal miner to the industry. The miners' Welfare and Retirement Fund pays pension benefits at age 55 after 20 years in the mines. Any middle-aged miner with 10 or more years of mine experience may not want to give up the opportunity for that pension.

Furthermore, the miners have the advantage of one of the most comprehensive medical care systems in private industry. Miners of all ages, especially those with families, encounter two risks in shifting to another industry: (1) loss of coverage during the transition period, and (2) ending up with an inferior medical care system.

The policy issues and operating problems of the agencies administering the black lung program will rise again in the administration of the Occupational Safety and Health Act of 1970. To assist the Department of Labor in this emerging program Leo Kramer, Inc. recommends that the Department take the following steps.

1. Experiment in some significant coal mine area with special counseling, training and placement services to assist coal miners in their decisions on work or retirement.

2. Develop a program of finding suitable jobs for black lung miners who wish to continue working in other industries.

3. Study the problem of preserving the private pension rights of workers who have to shift from one industry to another.

4. Explore methods of linking medical care systems so that workers transferring to another industry do not lose coverage for themselves and their families during the transition.

5. Develop a program for training the thousands of young workers who will be entering the coal industry during the 1970's.

PREFACE

This is a study of miners who have become afflicted with coal workers' pneumoconiosis, commonly called "black lung".

One objective of the study was to describe the procedures by which the miner learns about his health condition and the possible actions which are open to him under the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972.

A second objective was to analyze the results of the legislation in terms of (a) the numbers of health-impaired working miners who elected to request transfers to jobs in the mine which conformed to the standards for clean air, and (b) the numbers of both miners and ex-miners who applied for and received black lung benefits under the program administered by the Social Security Administration.

The overall objective was to investigate the operations of the program with a view to developing a design for the services which could be performed by the Employment Service of the Manpower Administration in coordination with other State and Federal agencies participating in the program.

As originally planned, the study began in June 1971 and was scheduled to be completed in March 1972. However, the coal strike in the autumn of 1971 interrupted the progress of the work, while new developments in legislation in the spring of 1972 required additional analyses, so the study was extended for six months.

Dr. Ewan Clague, Senior Associate, became project director in January 1972, conducting the study and supervising the preparation of the final report. Harriette Dorosin made the analysis of the operating procedures of the program and served as editor of the report. Balraj Palli made the statistical analysis of the field survey of the coal miners.

Professor Edward Knipe of Virginia Commonwealth University directed the tabulations of the field survey of miners' opinions. Professor Thomas Rhodenbaugh of West Virginia University directed the field surveys of the miners--the selected sample and the individual case studies of disabled miners. Edgar James supervised the field work in those two studies. Robert Deverick of Virginia

Commonwealth University conducted the field survey of the community agencies and summarized the results.

We wish to express our appreciation for the leadership and the support during the course of the study of Dr. Howard Rosen, Director, Office of Research and Development, Manpower Administration, U.S. Department of Labor. Special thanks go to William Paschell and Ronald Jones of Dr. Rosen's staff for their effective monitoring of the study through the many changes in scope and direction which occurred in the program during 1972.

Murry Rottenberg of the Office of Education and Training of the Bureau of Mines participated in the original planning of the study and was a helpful critic throughout its course.

We are grateful to the scores of Federal, State and local officials of government and community agencies who took the time to give us information concerning the program and their judgment of it. Our thanks go also to the individual miners who answered our scores of questions in the field survey or described at length their personal experiences as black lung miners.

Rhonda Truet and Kaye Collie of the LKI staff performed effectively in the difficult task of typing the final draft according to the specifications laid down by the Department of Labor for reproduction.

Leo Kramer
President

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INTRODUCTION

The coal industry a quarter of a century ago was among the larger industries in the U.S. economy in terms of employment. Bituminous (soft) coal in 1948 had a total work force of about 425,000 men. Anthracite (hard) coal employed about 100,000.

Over the next two decades one outstanding characteristic of both branches of the industry was the shrinkage in employment. In bituminous there was a loss of 300,000 jobs (an average of 15,000 men a year) to a low point of about 125,000 in 1968. In anthracite there was an even more drastic decline to about 6,000 workers in 1972.

In anthracite the loss of jobs was compounded by a loss of markets. But in bituminous it was due primarily to spectacular productivity (output of coal per manday or manhour) on a fairly stable level of output from the end of the Korean War to the expansion of the war in Vietnam in 1965-66. During the following five years the production of bituminous increased to a total of over 600 million tons in 1970.

In terms of manpower, therefore, coal was a labor surplus industry in which relatively few young entrants joined up each year, while the employed work force closed ranks and filled the jobs that remained after each cutback. It was during those declining years that the United Mine Workers of America (UMWA) negotiated with the Bituminous Coal Operators' Association (BCOA) the system of the posting of vacancies within the mine, the bidding on those jobs by employed miners, and the selection of the qualified on the basis of seniority.

The turn-about in employment in bituminous began in 1969, followed by a sharp increase in 1970 when the Federal Coal Mine Health and Safety Act (FCMHSA) of 1969 went into operation. The coal strike of October-November 1971 set back the production and employment records for that year. A complex of Federal standards (mine safety, prices, pollution) restrained the output for 1972 but added some more employment.

Anthracite coal production is confined to a district in Northeastern Pennsylvania around Scranton and Wilkesbarre. Because of the declining importance of anthracite mining and the small numbers of miners employed, that branch of the coal

industry has not been emphasized in this study.

Bituminous output is quite heavily concentrated in Kentucky and West Virginia which rank at the top among the States in coal employment. These two States plus Pennsylvania employed in 1970 nearly two-thirds of total employment in the industry.

In bituminous output the above three States produced 58 percent of total production in the industry; adding Ohio brings the proportion up to two-thirds of the total. The Appalachian Region as a whole (eight States) mined 78.1 percent of the 1970 output.

Because of the steady and persistent decline of jobs in mining over the years, the bituminous mine work force increased in age. As of January 1971 a sample of miners from the Welfare Fund (total active membership equals 104,600) disclosed that nearly one-fifth of the active members were 55 years of age and over. Apart from the railroad industry, bituminous mining has one of the oldest work forces in the U.S. economy.

The long years of decline in bituminous coal employment not only resulted in high levels of unemployment in the major coal areas, but it also left in those communities large numbers of ex-miners, retired miners and disabled miners who made some of the communities into depressed labor market areas, as classified by the Manpower Administration of the Department of Labor.

Because coal mines are often located in isolated areas, quite far removed from the urban industrial centers, miners and their families usually form tightly-knit communities insulated from the outside world. The dominant labor organization is the United Mine Workers of America, which represents about three-fourths of the industry's miners. The UMWA is a strong industrial union which represents all the workers in the mines under contract. Several other unions exist in various sections of the country, and there is some non-union mining.

The counterpart to the union is the Bituminous Coal Operators' Association with which the UMWA negotiates the management-labor contracts on wages and working conditions. Because of the isolated character of the mining communities, the union negotiated with the operators for a retirement program which provides pensions for miners who wish to retire at age 55 after 20 years of service in the mines. The union also negotiated for a program to provide medical care to miners and their families. These programs are administered through the UMWA Welfare and Retirement Fund, which is supported by contributions from employers based on tonnage of coal mined. These fringe benefits give the miner a strong incentive to stay with the industry until retirement.

The hazardous nature of coal mining has always been well-known, but legislation in the United States has lagged behind that of other countries in requiring stringent safety regulations for coal mines and hygienic standards for exposure to coal dust. Repeatedly, mine tragedies costing the lives of many miners have been the catalysts for the passage of Federal laws to improve standards of safety in the coal industry. The development of mechanical mining equipment, which generates a substantial amount of coal dust, contributed to a high rate of pulmonary and respiratory ailments. Silicosis, a lung condition caused by the inhalation of fine particles of silica intermixed with carbon dust, had been recognized as an occupational disease of miners. Mine workers were also known to be especially susceptible to other lung diseases, such as tuberculosis, bronchitis, emphysema.

It was not until 1942 that coal workers' pneumoconiosis (CWP) was recognized in Great Britain as a specific disease entity associated with coal dust. Since that time the attention focused by European countries on the study and prevention of this impairment has stimulated the allocation of funds for continued research on dust diseases, with emphasis on CWP, and has resulted in compensation payments for workers disabled by this condition.

Lacking a sufficient body of knowledge on CWP on which to base research, American scientists relied primarily on the findings of European investigators. Early research in this country, however, had identified and acknowledged anthrasilicosis to be a modified form of silicosis affecting anthracite coal miners. A study begun in 1928 revealed that this condition, brought about by the inahalation of intermingled silica dust and anthracite coal dust, was present in some degree in approximately 23 percent of the total number of workers examined.

In the early 1950's CWP was recognized in the U.S. as an occupational disease that caused disability and death among deep mine workers. Subsequent investigations continued to substantiate the evidence that a severe chest disease problem existed among the mining population. Finally, in an attempt to assess the extent of this health-impairing condition, sample studies were undertaken by the Pennsylvania Department of Health (1959 to 1961) and by the United States Public Health Service (1963 to 1965). The findings of this latter comprehensive study of working and non-working bituminous coal miners demonstrated that CWP is a serious health problem related to coal mining, affecting in varying degrees about 10 percent of the active miners and almost 20 percent of the retired miners in the sample.

This recent public awareness of the existence and effects of pneumoconiosis as a distinct, mine-connected disease, coupled with the Farmington, West Virginia mine disaster of November 1968, laid the groundwork for the enactment of the

Federal Coal Mine Health and Safety Act of 1969.* The intent of the Act is increased protection of the health and safety of miners in general; therefore, the law declares that the coal industry must assume the responsibility for reducing the respirable dust concentrations in the mines to a safer level (at or below 2.0 mg/m^3 by December 31, 1972.**) Additionally, X-ray programs to detect evidence of black lung are made available to all working miners, and benefit payments are authorized for those totally disabled by the disease.

An unusual feature of the Act provides that active workers, whose X-rays show development of pneumoconiosis, be offered the opportunity to move to a less dusty job in the mines with no reduction in their regular rate of pay. It was thought that a substantial number of miners eligible for this type of transfer under Section 203 of the Act would exercise their rights.

With the passage of the Occupational Safety and Health Act (OSHA) of 1970,*** Congress applied its general commitment in the Federal Coal Mine Act--to provide safe and healthful working conditions--to all of American industry. The OSHA does not specifically provide occupationally disabled workers with the option to change jobs, as does the FCMHSA. However, the Department of Labor, charged with the responsiblity of adminstering the 1970 Act, has realized the need for exploring the transfer option available to eligible miners, with interest in its possible broader application to occupations and industries covered by the broader Act.

It was anticipated that some miners, faced with the decision of whether or not to request a transfer, would benefit from professional guidance. Also, younger workers, in the early stages of the disease, might consider leaving the coal industry entirely to work in less hazardous environments. One theoretical alternative for these miners would be to go to the Employment Service, the agency best equipped to give counseling, advice, and possible training under the Manpower Development and Training Act.

With a view toward aiding health-impaired workers on an all-industry basis, the Office of Research and Development within the Manpower Administration of the United States Department of Labor financed a study of the operational experience of the FCMHSA of 1969, with specific reference to Section 203. Leo Kramer, Inc. has prepared a comprehensive report through the use of thefollowing procedures:

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* Public Law 91-173; 83 Stat. 742.

** At or below 2.0 milligrams of respirable dust per cubic meter of air.

*** Public Law 91-596; 84 Stat. 1590

1. Analysis of Section 203 of the Federal Coal Mine Health and Safety Act of 1969, including a description of the basic operating procedures of the X-ray programs for active miners plus the experience with the transfer option. This phase of the study is reported in Chapter 1.

2. Field survey of a representative sample of coal miners to determine their views and actions in regard to the legislation of 1969 and its administration. Interview teams selected from the indigenous population administered a 57-item questionnaire to 204 miners. A summary of the miners' attitudes appears in Chapter 2.

3. Field interviews of community, State, and Federal agencies which provide services that may be required by a miner afflicted with pneumoconiosis. Chapter 3 contains a summary of the impressions of agency personnel and private citizens who have had some experience with miners' problems.

4. In-depth case studies of a limited number of coal mine workers, showing the actions taken by miners with severe cases of the disease. A summary of these disabled miners' experiences appears in Chapter 4, and the highlights of the individual interviews are shown in Appendix C.

5. Design for supportive services to assist health-impaired miners in exercising all viable alternatives, whether they decide to remain in the coal industry or leave mining entirely for another occupation. The model of services, Chapter 5, is broadly applicable to other occupations and industries, including those covered by the Occupational Safety and Health Act of 1970.

Ewan Clague

Ewan Clague
Project Director

Chapter 1

THE ADMINISTRATION OF THE BLACK LUNG PROGRAM

Introduction

The X-ray program for active miners is considered to be of major importance because it has the function not only of identifying those workers already disabled by black lung, hence eligible for benefits, but also is the basis for medical research on a broad scale of the causes and effects of breathing coal dust. This chapter explains the regulations under which the X-ray and transfer programs are conducted and explores the services offered to miners by various State and Federal agencies.

Under the provision of Section 203 of the Act, the Secretary of Health, Education and Welfare is given the responsibility for administering the X-ray program to detect signs of pneumoconiosis among working miners. Each miner must be offered facilities by his employer to obtain two chest X-rays at three-year intervals. If the second X-ray shows progression of the disease, the worker must be X-rayed again every two years. Miners found to be afflicted are entitled to transfer to a job in an area of the mine where the dust level will not contribute to further development of pneumoconiosis; or, if sufficiently disabled, they are entitled to black lung benefits.

Administrative Structure

The actual administration of the examination program is controlled by the United States Public Health Service (USPHS) through the National Institute of Occupational Health and Safety (NIOSH), which also is responsible for setting the health standards under the Act. Each coal mine operator must submit to NIOSH a plan, for which he assumes the cost, that describes the arrangements made to provide chest X-rays for all miners in his employ who wish to participate. To be approved, the operator's plan must indicate that certified X-ray facilities and local certified radiologists have been retained. The facility must be located in an area easily accessible to the miner and the provision of services should be on a non-appointment basis. Additionally, the operator or his legal representative must sign a statement assuring that his company will not violate the confidentiality of the results by soliciting any duplicate X-rays or findings.

The types of X-ray programs that have been approved are those using certified local hospitals and health care clinics with qualified physicians. In some instance where an operator has not yet submitted a plan for approval, the USPHS has contracted with health care facilities to provide mobile X-ray units near the mine sites. At present, there are two such contracts that offer miners the opportunity to obtain X-rays.

The critical issue of confidentiality is a factor of great concern to the miners. They fear their employers will have access to X-ray readings and will lay off workers who show indication of the disease. In fact, the UMWA at one point advised its members to refuse X-rays, since some of the physicians approved to take and read the X-rays were also believed to be consulting physicians to coal companies. This factor contributed to the hesitation of the active miners to participate in the voluntary X-ray program under the FCMHSA.

In LKI's survey of 204 miners (178 active, 26 retired), 65, or 32 percent, had not had an X-ray taken. Reasons given for lack of involvement in the program included concern about disclosure of results to employers. More recently, the regulations relating to confidentiality have been strengthened to insure that more active miners will be examined for the health-impairing disease.

The X-ray as a Diagnostic Tool

The X-ray classification scheme used by the examination program is the UICC/Cincinnati Classification of the Radiographic Appearances of Pneumoconiosis, an extension and refinement of the ILO 1958 scheme. This X-ray classification system has two major divisions for pneumoconiosis -- simple and complicated. Simple pneumoconiosis is evidenced by the presence of small opacities that are described by type (rounded or irregular), profusion (number of opacities concentrated in an affected area), and extent (the specific area or zone of the lung in which the opacities are recorded). The four categories of simple pneumoconiosis range from Category O, or no indication of disease, to Category III, which shows numerous small opacities that partially or totally obscure the normal markings of the lung.

Complicated pneumoconiosis, on the other hand, is revealed by one or more large opacities exceeding 1 centimeter in diameter. These opacities are defined by size, area of the lung field covered, and type (well-defined or ill-defined). Other features, such as pleural thickening and pleural calcification are noted, as well as additional abnormal disorders like cancer of the lung, tuberculosis, or marked emphysema.

The reliability of the X-ray for determining the presence of the disease has been subjected to much controversy. Pneumoconiosis is defined as "chronic dust disease of the lung arising out of employment in a coal mine." Thus, the diagnosis of pneumoconiosis should show the retention of dust in the lungs and this accumulation must be related to work in mining. Although X-rays cannot assess with pure objectivity the degree of disability present, many experts feel they do show a pattern of dust retention, while pulmonary function tests do not indicate retention.

Other Diagnostic Tools and Legal Controversy

Due to the subjectivity of X-ray interpretation, considerable variance in readings may result. It has been suggested, too, that the single X-ray, taken from the front, is not by itself adequate to discover all indications of black lung. Some argue that X-rays taken from other positions often provide conclusive evidence of the presence of pneumoconiosis.

Other experts, such as Dr. Donald Rasmussen of the Appalachian Regional Hospital in Beckley, West Virginia and Dr. John Rankin, Director of Pulmonary Research at the University of Wisconsin's School of Medicine in Madison, Wisconsin, believe that disability from work-connected pulmonary diseases should be demonstrated by functional impairment and inability to perform work rather than by radiologic evidence alone. It has been argued that pulmonary function tests, arterial blood-gas studies, and exercise testing are equally valid measures of indicating types of work-related respiratory and pulmonary diseases. These experts claim that pulmonary disability should be related to years in mining regardless of the absence or presence of pneumoconiosis by X-rays.

As a result of this controversy, the recent passage of the Black Lung Benefits Act of May 1972, has provided, among other amendments to the FCMHSA, that a miner with 15 or more years of mining experience, who has a negative X-ray, but who is diagnosed by supplemental evidence as totally disabled by a respiratory or pulmonary impairment, shall be presumed to be disabled by pneumoconiosis. The definition of total disability has been altered to allow claims for black lung benefits based on inability to engage in gainful work. Thus, claims can no longer be denied solely on the basis of a negative X-ray; additional tests must be granted to determine if the disease exists in disabling proportions.

Operation of the X-ray Program

Approved examination facilities are issued Miner's Identification Documents and Roentgenographic Interpretation Forms. When a miner reports for his X-ray, he supplies the necessary employment and personal data, including the name of his personal physician, for completion of the Identification Document. The miner also signs a release authorizing the USPHS to notify his designated physician of the X-ray results.

The local radiologist certified as able to read X-rays according to the classification scheme takes the X-rays of active miners at the field site and records his interpretation on the appropriate form. This initial reading by the "A Reader" is forwarded with the X-ray and the Identification Document to the X-ray Receiving Center at the Appalachian Laboratory for Occupational Respiratory Diseases (ALFORD) in Morgantown, West Virginia, one of the six operating divisions of NIOSH.

At this point, the medical and personal data are entered into the large-scale computer system of the West Virginia University Computer Center and the Miner's Identification Document and the Roentgenographic Interpretation Form are reproduced on microfilm. Daily edit checks by the computer determine whether the X-rays received were taken and interpreted at certified facilities by certified physicians. If necessary, action is taken to offer approved facilities to miners.

Following verification of the facility, the X-ray is sent to a "B Reader," one of many physicians certified to interpret chest roentgenographs. These readers are located throughout the country and in general are on the staffs of hospitals in large metropolitan areas such as Los Angeles, Cincinnati, and New York. Once the X-ray has been read independently by the "B Reader," it is returned to ALFORD, where the results of this second independent interpretation are entered into the computer for search and comparison to determine the similarity of the two readings. If both readings concur, letters will be issued that eventually will inform each working miner who participated of the results of his examination and will advise him of his rights under the law.

However, if the computer search and comparison reveal that the independent readings of A and B Readers do not agree on the category of pneumoconiosis, the film is sent to the "C Reader". Although this reader is informed of the findings of the two other readers, he does not know the names of those readers. The "C Reader" reviews the film and makes a final determination that is not subject to arbitration. It is possible that this third and final reading could be different from either of the other two interpretations. Based

on this decision, the appropriate letters are mailed to inform the miner of his options.

Once the lack or degree of pneumoconiosis evidenced by the X-ray is determined, ALFORD forwards this medical information to the U. S. Department of the Interior, Bureau of Mines, which in turn notifies the active miner of his options, if any, under the law. The types of letters sent to miners include those that reveal the miner (1) is not eligible for transfer due to no evidence or insufficient evidence of the disease; (2) is eligible to request a transfer within the mine at an equal rate of pay; or (3) is eligible to request a transfer or, alternatively, can apply to the Social Security Administration for black lung benefits. A copy of the medical report received by the Bureau of Mines from ALFORD is also enclosed in the correspondence to the miner.

The letter sent to a working miner who has Category II simple pneumoconiosis and thus can transfer to another position in the mine--reads as follows:

> Recently you participated in a medical examination authorized by the Federal Coal Mine Health and Safety Act of 1969. The enclosed letter report of examination has been sent to us from the Public Health Service. Department of Health, Education and Welfare.
>
> Your medical examination report indicates that you have a sufficient degree of pneumoconiosis (black lung) to be eligible for transfer to an area of the mine where the concentration of respirable dust is not more than 2.0 milligrams per cubic meter of air, if you are not already working in such an environment. This eligibility includes the right to receive wages for such work at not less than the regular rate of pay received by you immediately prior to your transfer.
>
> If you wish to exercise your option, you should sign and date the enclosed form and sent it to:
>
> Health Division
> Coal Mine Health and Safety
> Bureau of Mines
> Department of the Interior
> Washington, D. C. 20240

A self-addressed envelope is enclosed for your convenience.

Sincerely yours,

Elbert F. Osborn
Director

Enclosures

At the same time, a report is sent by ALFORD to the physician designated by the miner at the time of his exam, notifying him of the miner's condition, including any other abnormalities such as tuberculosis, cancer, or cardiac disease. Any miner discovered to have a significant disorder other than pneumoconiosis receives a letter directly from the Appalachian Laboratory urging him to consult his private physician for further examination. Should the miner have failed to indicate his doctor at the time of the X-ray examination, he is requested to submit this information to the Laboratory so that his physician might receive a report.

First Round of the X-ray Program

The first round of the X-rays under the medical X-ray program for working miners provided by the Act is essentially complete. However, the X-ray Receiving Center at ALFORD reports that approximately 150-200 X-rays continue to be received each week. These include X-rays taken of all newly employed coal workers plus the re-takes of those X-rays initially deemed unreadable.

About 65,000 X-rays of active coal miners had been sent to the Laboratory as of January 1973, and of these, over 63,000 have been completely processed and letters based on the final diagnosis have been issued. The breakdown by category of affliction (described previously) is as follows:

Category O	55,771
Category I	
Under 10 years in mining	330
Over 10 years in mining	4,523
Category II	1,841
Category III	143
Complicated	719
Total	63,327

These figures show that about 88 percent of the completely processed X-rays of working miners are negative. Approximately 3 percent (1,984) of the miners have evidence of Categories II or III simple pneumoconiosis, while 719 miners (1.1 percent) show the complicated form of the disease.

A brief explanation is necessary for the two classes of cases in Category I. It is believed that a miner who has been in the mines less than 10 years and has acquired that degree of black lung in that short time is more susceptible to the disease. It is likely that his condition will progress faster if he continues to work in dusty air. For those who have been in the mines for 10-15 or more years, but with relatively minor affliction, the indications are that they are not highly susceptible and can continue working where they are now.

Only 330 (almost 7 percent) of the miners classified as Category I had less than 10 years of service. These are miners who would be entitled to seek transfers to other jobs. The other 93 percent, while somewhat touched with black lung, are not considered sufficiently affected to warrant transfer.

Second Round of the X-ray Program

The law provides that active workers shall be offered chest X-rays on a routine periodic basis to determine if the disease has progressed. The second round of X-raying is expected to begin 120 days following the promulgation of final regulations in the Federal Register. Current information indicates that proposed regulations are anticipated by February, 1973, with final regulations being issued within 30 days thereafter.

Major differences in this second round of testing will include (1) the examination of strip miners as well as underground workers, due to the amendments in the Black Lung Benefits Act of 1972, (2) pulmonary function tests, and

(3) the use of a more comprehensive medical and occupational questionnaire similar to that of the National Study of Coal Workers' Pneumoconiosis, discussed in the following section of this chapter.

The issuing of a letter of notification to a miner has required approximately four to five months during the first round of examinations. However, with refinement in the administration of the program and in the data processing system, it is anticipated that second-round letters will be sent out on an average of 30 days from receipt of the film, with 45 days being the maximum time for processing and notification.

National Study of Coal Workers' Pneumoconiosis

The National Study of Coal Workers' Pneumoconiosis (NSCWP) is an on-going epidemiologic study being conducted by the USPHS at selected large mines (100 or more workers) in the country. Begun in 1969, this study is designed to research the disease per se with a view toward determining (a) the rate of progression of pneumoconiosis in coal miners over a 15-20 year period; (b) the prevalence of the disease; and (c) the factors, other than coal dust, that influence the progression of the disease. An additional goal of the study is to provide data for determining future respirable dust standards for coal mines.

Mobile radiology units from ALFORD visit on-site at the sample mines and provide chest X-rays for all miners wishing to participate. Moreover, respiratory and occupational histories are obtained, height and weight are measured, and simple breathing tests are administered. A total of 9,076 miners employed in 31 coal mines located in 10 different states were processed in the first round of X-ray examinations completed June 30, 1971. Of this total, 8,553 workers were employed in bituminous mines and the remaining 523 in anthracite mines.

Since these examinations also fulfill the obligations of the FCMHSA of 1969 that each working miner be given the chance to receive a chest X-ray, the operators of mines selected for the NSCWP are meeting their legal responsibility at no cost to their companies. Although the operation of the X-ray program of the NSCWP differs slightly from that of the medical examinations under the Act, the miners are entitled to the same privileges under the law.

When X-ray units return from the mine site to ALFORD, the films are read and classified by the Chief of ALFORD. Based on this initial reading, letters, almost the same as those used by the program under the Act, are sent directly from the Laboratory to the miner and his physician giving notification of

the degree of pneumoconiosis present and advising the miner of his privileges. The Bureau of Mines becomes involved in the notification process when a miner decides to request a transfer within the mine.

Subsequently, the X-ray is interpreted independently by two other experts, who do not know the results of the initial reading by the Chief. If at least two of the three separate readings agree on a category of pneumoconiosis, the decision is deemed final by consensus. Should all three readings differ, a fourth and final expert is called upon. Without access to the other interpretations, this reader makes a final judgment on the category of pneumoconiosis. If this final classification differs significantly from the initial reading, another letter is sent to the miner advising him of the change in diagnosis.

Consensus readings have been completed for all X-rays taken under the NSCWP and letters have been issued to each miner who participated. Statistics indicate that approximately 70 percent of the total number of X-rays are negative. It should also be noted that approximately 90 percent of the selected miners participated in this study as compared to about 50 percent participation in the medical X-ray program provided by the Act. This success of the NSCWP is attributed partially to the reputation of the USPHS in guarding the confidentiality of the X-ray findings. The UMWA, the UMWA Welfare and Retirement Fund, and the Bituminous Coal Operators' Association have fully endorsed this study.

The second round of X-rays in this research program began July 17, 1972, with miners at 38 mines in 11 states having the opportunity to receive examinations for pneumoconiosis and other respiratory ailments. Periodic visits to the mines every three to five years will provide X-ray evidence for estimating the rate of progression of the disease in miners tested during each round. Every new series of examinations will include several new mines to allow for mines that have closed and for miners who retire or leave their jobs.

Transfer Option

Section 203 of the FCMHSA declares that all active miners who participate in the X-ray program and are found to have any indication of pneumoconiosis--Categories II, III, and Complicated--are to be given the option to transfer. In addition, Category I miners who have acquired the disease in less than 10 years are also given the option to transfer. In essence, then, all miners, with the exception of those whose X-rays are clear or who are classified as Category I with more than 10 years in mining, are given the option to transfer to less dusty work areas.

For the first three years of the FCMHSA the standard for dust concentration for each miner in the active workings of the mine was set at 3.0 milligrams of respirable dust per cubic meter of air. As of January 1973 this average concentration of respirable dust is to be maintained at or below 2.0 mg/m^3. During the last three years the afflicted miner had the right to transfer to a job in which the concentration of respirable dust was not more than 2.0 mg/m^3. From January 1973 onward this standard becomes 1.0 mg/m^3.

Under the regular X-ray program conducted in compliance with the FCMHSA, approximately 63,000 working miners have had their X-rays taken and read. As of January, 1973 a total of 3,033 active miners have been classified as eligible for transfer to less dusty jobs. The breakdown by category of affliction follows:

Category I	
Under 10 years in mining	330
Category II	1,841
Category III	143
Complicated	719
Total	3,033

In addition, the NSCWP has reported the following statistics for workers.

Category II	511
Category III	56
Complicated	224
Total	791

In Category I, the total was 1,922 with no information on those with less than 10 years in the mines. If the seven percent ratio found in the regular program holds here, there were about 134 additional miners with the transfer option--a total for the NSCWP of about 925.

Any individual who decides to exercise his option to transfer has the responsibility of seeing that the U. S. Bureau of Mines is notified of his desire. If the miner were examined under the medical X-ray program provided by the Act, he has received, as discussed previously, a letter from the Bureau of Mines regarding his diagnosis and his entitlement to transfer. Upon receipt of this letter, he signs, dates and returns the appropriate form to the Bureau.

Upon receipt of the miner's signed form, the Bureau of Mines, via its computer center in Denver, Colorado, advises the coal operator that the miner is eligible for and has requested transfer. This letter to the operator does not reveal the medical diagnosis on the miner. The operator then has 45 days from the date of the letter of notification to complete the transfer. He must also inform the District Manager of the Coal Mine Health and Safety District in which the mine is located when the transfer has been granted.

However, the operator can appeal the transfer directive, if he believes that the miner is already working in an environment that meets the dust standards of the federal legislation. After receiving certification from an operator regarding the dust levels in his mine, the District Manager, referring to records of sampling tests, will attempt to confirm this assertion. If it turns out the operator is correct, the District Manager will notify the miner by letter that the operator need not transfer him to another position. If, however, the operator's claim is disallowed, the Bureau of Mines can direct him to transfer the miner in accordance with the provisions of Section 203.

Since a miner considering transfer knows that he will not be eligible if he is already working in "clean air", why should he disclose his affliction to his employer unnecessarily? In order to determine if he is presently working in a dusty environment, the miner can request dust sampling data on his job from the operator, who periodically receives computer print-outs from the Bureau of Mines or the dust levels of all positions in his mine. If the dust level in his place of work is below the required standard, the miner will realize that there is no point in disclosing his health condition.

The records show that only a small percentage of all miners eligible to request transfers actually apply. As of January, 1973, only 650 miners from both programs had submitted the required form requesting transfer to jobs in less dusty environments. Some of those decided at a later date against transferring and sent notice to rescind their previous instructions. There are no figures available as to the actual number of miners who have been granted transfers.

UMWA Welfare and Retirement Fund

It is clear that significant numbers of miners who are working in high dust level positions mistrust the transfer option and resist exercising it. To indicate any ailment to the operator might threaten the miner's job security. A review of the attractive benefits offered by the UMWA Welfare and Retirement Fund discloses the reason for a miner's masking his disability in order to safeguard the future welfare of himself and his family.

The UMWA Welfare and Retirement Fund offers a pension of cash payments in the sum of $150 a month to miners 55 years of age who have accumulated a total of 20 years service in the mines, five of which must have been with union mines, with one of those five years falling immediately prior to retirement. This pension is drawn for life, regardless of additional income from work in any industry not related to mining. Moreover, benefit payments to a retired miner from any State or Federal source do not affect the pension. As an added incentive to miners, the Fund expects to implement in the near future a bonus program increasing the pension by an additional $7.50 per month for each year worked after eligibility for retirement at age 55 up to age 65. Thus, a miner working a maximum of 10 years beyond retirement age could raise his pension from $150 a month to $225.

Comprehensive medical and hospital coverage for the miner and his eligible dependents commences upon employment and continues so long as a pensioner earns no more than $100 a month in non-mine-related work. Once the individual is entitled to Medicare at age 65, the Fund continues to supplement these benefits as well as cover costs for medication required for long-term illnesses. Each Fund beneficiary is issued a medical card, the 85-HS, which identifies him as being authorized to obtain services offered by qualified physicians and accredited hospitals approved by the Fund. Area Medical Offices of the Fund, through arrangements made with these doctors and hospitals, receive all bills and medical reports on beneficiaries. If a report indicates that additional care may be needed, including rehabilitation, arrangements can be made and progress reports would be kept on file. Training may be offered for miners unable to return to the coal industry yet capable of less strenuous work. Area Medical Offices also provide aid to miners filing claims for workmen's compensation, Social Security disability, or black lung benefits.

Upon the death of a pensioner, the widow receives a $2,000 allotment paid over a two-year period, while the widow of an active worker is granted $5,000 over five years' time. In either case, she and her dependents continue to have health coverage until the allotment is paid in full.

As can be seen, the economic advantages to a union miner of remaining in the industry until retirement may often outweigh his concern over his health. Few middle-aged miners showing development of pneumoconiosis would risk this security for a job in clean air.

Seniority System

The strength of the seniority system in the UMWA also contributes to a miner's reluctance to transfer. Circumventing the established, traditional procedures for changing jobs in the mine upsets the smooth operation of the orderly system whereby a senior worker has priority to bid on available jobs. In our field interviews with various agency personnel (Chapter 3) the UMWA representatives indicated that a conflict might arise with an operator over the issue of seniority. The union, in fact, discourages its members from requesting those transfers which possibly could displace a worker or prevent a senior man from bidding on a job opening. The miners' opinions, described in Chapter 2, show that 50 of the 204 miners interviewed claimed knowledge of "someone" who had sought transfer; but they reported only 10 of these 50 requests granted.

The purpose of the legislation of 1969 was to reduce the cause of pneumoconiosis, namely, coal dust, and to provide a means for those already afflicted to move to mine jobs in less dusty areas. However, it appears that the economic advantage of remaining in the coal industry until retirement, rather than risking one's job by seeking a transfer in the mines or deciding to leave the industry entirely, outweighs the miner's concern for his health.

Black Lung Benefits Program and the Social Security Administration

Thus far, we have seen that an active worker eligible for transfer may choose to retain the security of his present job in the mines, even if the high dust level might contribute to continued deterioration of his lungs; or, despite the risks, he may decide to risk requesting a clean air job. A further alternative exists for the active miner who has been diagnosed as having complicated pneumoconiosis--he can apply to the Social Security Administration for black lung benefits under Title IV of the FCMHSA of 1969.

Under the FCMHSA the Department of Health, Education and Welfare was assigned the responsibility of overseeing the administration of the black lung benefits program. Within this Department the duty was delegated to the Social Security Administration because of its experience and capability in administering a nation-wide benefits program. Following the enactment of the Act of 1969, district Social Security offices received materials for clarification of the provisions of the new legislation and for publicity of the program among potentially eligible applicants. Regardless of age or date of onset of disability, a miner may be eligible for benefits if he is totally disabled by pneumoconiosis from working in a coal mine. The amount of the basic black lung benefits is equal to one-half of the current minimum wage paid to a totally disabled Federal

employee in grade GS-2. Benefits range from $169.80 for a totally disabled miner, widow or other eligible recipient, to $339.50 for a miner or widow with three or more dependents. Any miner or widow getting black lung benefits and also receiving workmen's compensation, unemployment compensation, or disability benefits from his State because of the miner's disability, will have his black lung payments reduced by an amount equivalent to the State benefit. Federal benefits will not be reduced if a miner under 72 years of age earns up to $2,100; above that he loses $1.00 of benefit for every $2.00 earned, with no ceiling on the amount he can earn.

These local offices of Social Security, with the assistance of State agencies*, are available to provide help to the miner in gathering evidence to file his claim for benefits. When completed, the claim is forwarded to the Bureau of Disability Insurance (BDI) where it is reviewed and adjudicated. If necessary, BDI requests additional medical evidence before a final decision authorizes or denies the payment of benefits.

Frequently, the evidence needed to document a claim may be found in records maintained by Social Security, State Workmen's Compensation, or the UMWA. This availability of information speeds the process and allows the claimant to receive notice more quickly of acceptance or denial. The State of Pennsylvania, for example, has had coverage since 1965 for miners disabled by black lung. As a result of this active, long-going program, more complete medical files are available; thus Social Security has been able to make final decisions in less time on many claims from miners in Pennsylvania.

If the necessary evidence is not available on a claimant, the appropriate State agency is responsible for developing the claims medically. Arrangements are made for the purchase and reading of an X-ray by a qualified physician located in medical facilities as close to the miner as possible. However, due to the large numbers of claimants at the beginning of the program and to the confined geographical area of the mining community, it has been difficult to obtain enough qualified personnel and medical facilities. These are in short supply in the Appalachian region.

Should a miner wish to have his private doctor perform the examination, he can be reimbursed for any fees paid and for travel expenses incurred. It must

* The State agencies enlisted for assistance with the black lung program are those with which Social Security already has agreements in the administration of the regular Social Security disability program. The primary agencies contracted are the divisions of Vocational Rehabilitation, which usually are within the various State Departments of Education.

be borne in mind, however, that Social Security may refuse some X-ray interpretations by private physicians, pending their determination of the expertise of the physician in taking and reading films.

In cases when an active worker examined under an operator's program brings his letter of notification to the Social Security office, the office contacts ALFORD to confirm the diagnosis. The Appalachian Laboratory then sends to Social Security the miner's X-ray interpretation and the names of the doctors who read the film. In certain instances, the actual X-rays may be requested for re-interpretation by the Social Security panel of physicians. Also, if ALFORD has not completed the processing of the X-ray of a miner who feels he is eligible for benefits, another X-ray may be taken at program expense to expedite the process.

Once the black lung application and the initial reading of the X-ray are complete, all information is forwarded to the BDI. Here the medical staff determines the quality of the X-ray; if deemed unreadable, a request is sent to the X-ray facility for another film.

When an X-ray is considered acceptable, it is reviewed again by a group of eminent radiologists, many of whom also act as readers for ALFORD in the medical X-ray program provided for active workers by their employers. In addition to these professionals, the medical staff at BDI is participating in the interpretation of films.

The readings are entered on an interpretation form almost identical to that used in the FCMHSA X-ray program for active workers. When the category of pneumoconiosis has been determined and all additional medical and supportive evidence has been submitted, a BDI examiner, with the aid of medical consultants if necessary, rules whether the claim for benefits is to be awarded or denied.

Any miner with complicated pneumoconiosis is ipso facto presumed to be totally disabled and Social Security begins paying benefits at once. Benefits may also be granted to miners with negative X-rays or with simple pneumoconiosis if they furnish other relevant medical evidence of a totally disabling respiratory or pulmonary impairment that developed from employment in a coal mine. Factors such as age, education, and length of service in mining are considered before a final determination is made.

Until a miner is diagnosed as totally disabled, he is considered employable. Under the legislation of 1969 about one-half of the claimants were denied black lung benefits. Those who failed to qualify for payments had insufficient medical evidence to determine total disability or had a disabling lung

condition other than pneumoconiosis. Disability from these types of impairments was not recognized by the FCMHSA; however, with the passage of the Black Lung Benefits Act in May of 1972, the criteria for total disability have been liberalized and miners suffering from other incapacitating lung conditions arising from employment in the mine may be eligible for benefits. Benefit claims no longer can be denied solely because of negative X-ray findings. Supplemental tests must be obtained before a decision is reached.

As a result of this new law, the Social Security Administration is now reviewing the many thousands of claims previously disallowed. Quite probably a number of claims are being awarded without further medical evidence. However, it is clear that those miners with negative X-rays will have to furnish pertinent information to document a claim for a disabling respiratory or pulmonary impairment, e.g., arterial blood-gas analysis and exercise testing. These claimants are notified by Social Security to gather the additional evidence and ample time is allowed to submit the requested information before a decision is made based on the new law.

By the summer of 1972 a total of 96,000 miners had been awarded benefits under the original black lung program. This figure was reduced to 88,100 as of October, the decline being due, in general, to the deaths of the beneficiaries. In addition, benefits were paid in October to 78,300 widows and 9,600 dependents.

On the re-examination of X-rays under the Black Lung Benefits Act, a total of 23,800 miners have been awarded benefits, with the processing still continuing.

State Workmen's Compensation

If a miner is awarded black lung benefits by the Social Security Administration and is also receiving State workmen's compensation for his disability, these Federal payments will be reduced dollar for dollar by the amount received from the State. State workmen's compensation plans hold the employer liable for diseases and injuries resulting from employment. Disability is classified as permanent or temporary; partial or total, with payments and degree of coverage varying greatly from State to State.

An employer may elect to assume direct responsibility for providing compensation to any workers injured due to employment. Usually, however, employers carry insurance policies--through a private company or a state-managed workmen's compensation fund--to cover any claims that may arise. The degree of hazards in the industry and the types and numbers of claims charged

against an employer determine the amount of the premiums paid for workmen's compensation coverage; therefore, it is clear that the reduction or elimination of safety and health risks would lower the premiums an employer must pay.

Under present legislation, the Federal benefits to qualified coal miners are paid from the general revenue fund and are the burden of the taxpayer, not the coal industry. This fact alone has been a source of vigorous controversy. It is argued that the coal industry is shirking its responsibility by lobbying against adequate State legislation to cover black lung miners. Some people urge even further legislation to provide a permanent black lung program under Federal law, thereby relieving the industry entirely of any responsibility to its workers. On the other hand, the coal industry points out that this charge for black lung coverage on the individual operator and the industry as a whole may force numbers of small employers to close down.

Under the present operation miners applying for black lung benefits must also apply for State workmen's compensation. However, not all States have compensation that would cover black lung and the Federal government will pay if the State does not.

Retirements under Social Security

Although black lung benefits are offset by the amount of State workmen's compensation payments, an eligible miner may receive funds from other sources, including additional earnings up to $2,100 a year, without any reduction in his black lung check. For instance, a black lung recipient also could be entitled to his pension from the UMWA Welfare and Retirement Fund, Social Security disability payment or Social Security old age benefits, and earnings of up to $175 a month. However, if the pensioner wishes to retain health coverage from the Fund, his additional income from employment is limited to $100 per month.

The fundamental purpose of Social Security is to provide a continuing income to workers and their families when their usual income is reduced or eliminated because of the employee's retirement, disability, or death. Nine out of ten workers are contributing to this program which helps ease the financial problems of a family experiencing a decrease in earnings.

1. Social Security Old Age Benefits

A worker may retire under Social Security at age 62 with partial benefits or at age 65 with full benefits. The annual retirement test is applied to the income of all Social Security retirement beneficiaries, except those age 72 and over. If

this test shows that a substantial loss of earnings has occurred, the worker is entitled to retirement payments, in addition to other personal resources such as pensions, investments, savings and salary up to $2,100 a year. However, a miner's Social Security retirement benefits will not be affected if he is awarded black lung benefits. Black lung benefits, while administered by the Social Security Administration, are paid from the general revenue fund of the U. S. Treasury, not from the Contributory Social Security Trust Fund. Thus, an eligible miner would be entitled to receive both payments in full -- Social Security old age benefits, based on his previous contributions, and black lung benefits, based on his disability due to pneumoconiosis.

2. Social Security Disability Insurance

In addition to retirement benefits, Social Security may provide cash payments to disabled workers. While black lung benefits are paid to miners who are totally disabled due to pneumoconiosis brought about by employment in a coal mine, Social Security disability insurance is available to insured workers who become temporarily or permanently disabled, regardless of the nature of the disease or impairment that causes the disability, and regardless of whether the disability is work-connected. These benefits are payable to eligible workers under 65 years of age and to certain family members. Once payments commence after a six-month waiting period, they continue as long as the disability prevents employment. When a worker reaches age 65, these disability benefits are converted to the Social Security retirement program with no reduction in the amount of money received. Social Security disability insurance, then, is a method of "premature retirement" for workers no longer capable of full-time participation in the active work force, yet too young to retire under the regular Social Security old age pension.

The amount of the disability payments is related to the former wages of the individual and to the number of years of work credited to his Social Security account. A disabled worker's additional income from employment or self-employment is not subject to the annual earnings test, although his non-disabled dependents, earning in excess of $2,100 will have some of their benefits withheld. If the condition of a recipient improves and medical evidence shows that he is no longer disabled, he will receive benefits for a three-month adjustment period before payments are stopped.

A disabled worker who returns to a job in spite of his impairment is allowed a trial work period to determine his capacity to work. During this work period, which can last up to nine months, he will continue to receive full disability payments. If, at the end of the nine months, the employee is able to remain on the job, his Social Security disability benefits will cease following the adjustment

period of three months. This makes it possible for a disabled worker to get earnings plus full benefits for up to twelve months, providing that medical examinations show that he is still considered to be disabled. Also, if a worker finds he is not capable of continuing in the trial work program he can leave the job and keep receiving his Social Security benefits.

Since 1954 the Social Security Act has provided protection against loss of earnings due to disability. Subsequent amendments have continued to expand and refine the program. In the 1965 amendments to the Act, Congress enacted the "workmen's compensation offset" provision that applies to workers disabled on or after June 1, 1965 and under the age of 62 at the onset of disability. This provision calls for the reduction of Social Security disability payments if the combined disability and workmen's compensation benefits exceed 80 percent of a worker's average earnings before he became disabled. In cases where the total of the two benefits is greater than this amount, the Social Security disability payment is reduced by the sum of the excess.

Under the FCMHSA of 1969, black lung benefits were considered "workmen's compensation" payments for the purpose of the Social Security disability insurance. Accordingly, a number of disability insurance beneficiaries had these benefits reduced when they were awarded black lung compensation. However, the Black Lung Benefits Act of 1972 states that black lung benefits under Part B of Title IV are no longer regarded as workmen's compensation; therefore the possibility of an offset has been eliminated. Additionally, all miners who previously suffered any loss in regular disability payments will be reimbursed for the total amount withheld.

Any person who applies for Social Security disability payments is automatically considered for possible counseling, training or other services that are offered by his State Rehabilitation agency. Social Security supplies a complete file to aid this agency in determining whether a person could be returned to productive employment. In some instances, Social Security pays the costs of services since rehabilitation is usually less expensive than paying benefits. A disability recipient who refuses the help offered by Vocational Rehabilitation will not be paid his benefits.

Vocational Rehabilitation

In the course of his working career, the miner afflicted with pneumoconiosis may have need to contact the Vocational Rehabilitation (VR) agency in his State. The Federal-State programs of Vocational Rehabilitation in the various coal-mining States have large numbers of potential applicants for services,

but face problems in motivating health-impaired miners to participate in retraining programs. These programs would enable the retired worker to return to the labor force and would assist the younger man, who is concerned over his health, to find alternate employment.

Thus far, VR has had little success in rehabilitating black lung miners, even though with the passage of Federal laws on coal mine health and safety, rehabilitation agencies have made special efforts to expand services for these disabled workers. The agencies have found, however, that it is difficult to compete with the tangible retirement and disability benefits available to workers with black lung. Generally, the VR approach has been to work with the older miners who are already receiving or who are in the process of filing for black lung benefits. As knowledge of the various problems of working with this age group has arisen, it has been realized that concentration should be on the younger miners, with simple pneumoconiosis, who are less physically deteriorated by the disease and have longer work careers ahead of them.

Since black lung miners are classified as totally disabled, they can expect permanent, lifetime payments, plus any wages they may earn, up to $2,100 a year. These miners, as well as those hoping to be awarded benefits, are concerned that enrollment in a training program might endanger their receipt of benefits. The findings of the interviews of Vocational Rehabilitation representatives in four Appalachian States (reported in detail in Chapter 3), show that older miners appear to be satisfied to retire and draw benefits, while younger miners hesitate to give up lucrative jobs and the possibility of future benefits offered by the UMWA Welfare and Retirement Fund.

Since the miner then is free to choose or refuse rehabilitation, the plan of the agency is to develop strong incentives to draw the miner into training programs that protect his health and continued employment without contributing to his insecurity.

A federally funded demonstration project at the Pennsylvania Rehabilitation Center in Johnstown, Pennsylvania is uncovering the reasons why miners are reluctant to participate in rehabilitation programs. This on-going project is a cooperative effort among the Pennsylvania Bureau of Vocational Rehabilitation, the UMWA, and the UMWA Welfare and Retirement Fund. Names of 173 miners with some degree of pneumoconiosis were obtained from the files of the Fund's Area Medical Offices and from VR records, invitations to meetings were issued, and a total of 78 miners, plus 48 "walk-ins" actually attended. The mean age of the miners attending was 55; almost all were retired. The majority of the miners were interested in discussing their problems in filing for black lung claims and appeals.

Only six miners were scheduled for vocational diagnosis at the Pennsylvania Rehabilitation Center; two cancelled before the course was underway; two dropped out during the program; and two completed training.

The project's first year of operation demonstrated some of the difficulties in retraining retired miners to enter other fields of employment. These include: (a) advanced age of the miners, (b) their lack of formal education, (c) their reluctance to relocate for employment, (d) the lack of other industry in the coal-mining areas.

Another obstacle to overcome is the miners' concern about their financial situation. If they feel that any of their disability benefits are being threatened, they will not approach rehabilitation positively. It must be recognized that these miners participating in the Johnstown project were already certified as disabled. Many of them must have been aware of the workmen's compensation policy that a disabled worker, who can be rehabilitated and who is eventually restored to employability, will be taken off the rolls.

Under the black lung program a miner can continue to receive his benefits while holding a full time job in another industry. Therefore those miners with black lung benefits only have a significant incentive to take other jobs outside of mining.

The Johnstown project is being continued for a second year in the hope that, through resolution of some of the problems and better understanding of the alternatives, more retired miners will become interested.

State Welfare Departments

In the Appalachian region, many coal miners afflicted with pneumoconiosis are receiving public assistance and/or food stamps through the State Departments of Welfare. Miners and their families are eligible, in a number of cases, for two types of relief programs administered by the States and supported by State and matching Federal funds. These programs, carried out according to Federal guidelines, are: Aid to Families with Dependent Children (AFDC) and Aid to the Permanently and Totally Disabled.

Eligibility for public assistance is determined by a graduated scale based on the total resources of the household and on the number of family members. If the income of a family falls below the standard for "minimum household requirements," the difference is provided by welfare. These payments often supplement workmen's compensation, and medical expenses and certain

prescriptions are paid if the recipient is treated by a participating doctor. Food stamps are available to public assistance recipients and to eligible families not on the welfare rolls. They can be purchased at a rate commensurate with the family's income.

A miner drawing public assistance and subsequently awarded black lung benefits will, in all probability, have his welfare payments withdrawn. Since black lung recipients presently receive the highest benefits paid under programs administered by Social Security, this amount would bring the miner's total income above the level required for welfare.

Summary

The black lung program requires for its effective operation the collaboration of a wide variety of agencies--Federal, State and local; private and public.

In the preventive aspects of the program the Federal responsibility is centered in one agency, the Bureau of Mines, which conducts the mine inspections and enforces the standards for clean air in the mines, with the ultimate objective of eliminating black lung as an occupational disease. At the same time the Bureau of Mines (or some other agency) in each State is conducting its own inspections and applying its own standards. Agency interrelationships in this phase of the program were not included in this study.

On the remedial aspects--the protection and security of black lung miners--many agencies participate in a piece of the action, but there is no overall direction. The Public Health Service directs the X-ray program, but the Bureau of Mines enforces the miner's right to a job transfer within the mine. The Employment Service (local office) may be called upon to make placements for the miners seeking jobs either within or outside the coal industry. Other State and local agencies may provide other services.

The main point is that the individual miner has a series of important decisions to make concerning his work or retirement career without having full knowledge of the alternatives. This lack of knowledge comes out very clearly in the responses of the miners to the field surveys. It would be advantageous if there were one agency to which he could go for full information and for assistance in his decision-making.

Chapter 2

COAL MINER ATTITUDE SURVEY

Objectives of the Survey of 204 Miners

The passage of the black lung legislation by the Congress reflects the substantial influence of the United Mine Workers of America in particular and the coal mining population in general. With the economic turn-around which occurred in coal mining in the late 1960's, the demand for bituminous coal increased substantially, the long-run employment prospects brightened perceptibly, and the bargaining power of the workers (both economic and political) was strengthened. It was in those same years that the United States first became fully aware of the black lung affliction which had been identified and treated in several European countries for more than a decade. The spark which triggered the legislative action was the Farmington, West Virginia mine disaster of 1968, in which 78 miners died. In 1969 Congress passed the Federal Coal Mine Health and Safety Act.

The Act seemed to cover all the risks--safety for working miners, job transfer options for miners with a touch of black lung, benefits for miners disabled by black lung. The industry's backlog of retired miners, widows of miners and their dependents were brought under the Act. At the outset, the legislation seemed to meet all needs. Yet as the FCMHSA program got underway, there was a massive amount of dissatisfaction throughout the mining population in the coal areas. This dissatisfaction eventually burst forth in the passage of the 1972 Black Lung Benefits Act in May of that year.

It was with the objective of obtaining some grass-roots information from the miners themselves that this attitude survey was undertaken. Subsequently, another type of survey was conducted to review the programs of local community service agencies. Finally, a third type--an in-depth study of disabled miners--was used to cross reference the information gathered in the other two.

However, a clear distinction was drawn between community and miner sentiment. The major objective was to gauge the attitudes and judgments of the working miners.

The original plan had been to conduct the attitude survey in November, 1971. At first it was thought that the coal strike then in progress might be positively helpful, because the miners would not be working and would therefore be much easier to interview in depth. However, some soundings convinced the project staff that a survey during the strike would be harmful. The issues in collective bargaining would be sure to intrude and possibly to bias the returns. The survey was then postponed until the strike ended.

Because of the reluctance of the miners to talk to outsiders it was considered essential to have the interviews conducted by local people in whom the miners would have confidence. Questions were also posed in the language of the miners, which in a few cases led to some ambiguity in the answers.

It was also considered essential to make a pilot survey to test the questionnaire and the interviewing techniques. On the basis of the trial run the questionnaire was revised and refined, the interviewing teams were trained in methods of communicating effectively with the miners included in the survey.

There was no practical way to choose a pure random sample of miners from the industry as a whole. There were no industry-wide employment lists of miners available.

Furthermore, the study was not designed to cover all coal mining areas in the country. It was decided to select certain areas in Pennsylvania, Northern West Virginia, Southern West Virginia and Eastern Kentucky to represent the Appalachian region and another sample in Illinois to represent the Plains States. The samples were drawn from the coal mine labor force in the respective areas. Here is the sample by states of residence.

Table 1
State of Residence of Miners

State	Number	Percent
Pennsylvania	40	19.6
East Kentucky	55	27.0
Illinois	40	19.6
Northern West Virginia	20	9.8
Southern West Virginia	49	24.8
Total	204	100.0

With respect to West Virginia, our sample for the state as a whole amounted to 33.8 percent of the total, which corresponded almost exactly to West Virginia's share of total industry employment in 1970, which were the employment figures available at the time. Pennsylvania was also appropriately represented. The sample amounted to 19.6 percent, while 1970 employment in that state was 16.1 percent. The Eastern Kentucky areas were designed to represent not only that part of Kentucky, but also Virginia and Eastern Tennessee. In relation to 1970 employment that section is somewhat over-represented, although Kentucky coal production and employment has expanded sharply in 1971-72. Illinois was selected to represent the Plains States--Illinois itself, Indiana, Western Ohio, Western Kentucky, Western Tennessee, Arkansas, Kansas, and several others. It was not possible to represent the Mountain States (Arizona, Colorado, Utah, Montana) or the Far West (California, Washington, Alaska), but total mine employment in those areas is small. The sample represented in the study is reasonably representative of the coal miners in Appalachia and the Middle West.

Profile of the Coal Miners

The coal miners in the sample selected for this study are in a broad and general way representatives of the bituminous coal mining labor force. The following tables show the salient demographic and occupational characteristics of the miners who responded to our questions.

These miners ranged from age 19 years to 68 years, with the predominant group in the age bracket of 45-54 years (or about 30 percent of the whole sample). Altogether, nearly 45 percent were 45 years of age or over, a proportion that comes reasonably close to that reported for active miners by the Mine Workers Welfare and Retirement Fund Survey conducted in January, 1971, namely, 49.7 percent. The data are also in accord with developments of the last few years in that there was good representation of the youngest group age 19-24 (nearly 12 percent of the total). The detailed age distribution is shown below:

Table 2
Age of Miners

Age	Number	Percent
19-24	24	11.8
25-34	42	20.6
35-44	47	23.0
45-54	61	29.9
55-64	24	11.8
65-68	6	3.0
Total	204	100.0*

Seven out of eight of the miners in the sample were married, with more than two-thirds of the remainder being divorced, separated or widowed. Only 4 percent were single.

As family men these miners had numerous dependents. Only 16 miners out of 204 had none, with another 34 having one (usually the wife). The remaining 154 had a total of 476 dependents--about 3.75 per family.

Table 3
Miners With Dependents, by Age of Miner

			Age of Miner					
Dependents	Total	Percent	19-24	25-34	35-44	45-54	55-64	65 +
0	16	7.8	5	4	2	3	0	2
1	34	16.7	5	2	3	7	16	1
2-3	78	38.2	13	14	17	27	4	3
4-5	59	28.9	1	20	17	19	2	0
6 +	17	8.4	0	2	8	5	2	0
Total	204	100.0	24	42	47	61	24	6

Dependency was not closely correlated with age. The 16 without any dependents were scattered among all age groups except one (55-64 years). The

* Due to rounding totals may not equal 100.0.

youngest group had fewer dependents than the other groups, but more than half (13) of the youngest had two or three dependents each. At the other age extreme, the six miners aged 65 or over had barely more than one dependent each (on the average). The age group 55-64 was also low in dependency. Two-thirds (16) of that group had only one dependent each. The other three age groups were all heavily represented by dependents.

About 7 out of 8 (87.3 percent) of these miners were currently employed in mining jobs. Among the remaining 26 there were none who were at that time unemployed and actively seeking work, although there were two miners who classified themselves as unemployed, but not then looking for jobs. Almost two-thirds (17 out of 26) of these miners were temporarily or permanently disabled, while 6 claimed to be retired. Among the 15 permanents were 8 miners who claimed to have black lung.

Home ownership was prevalent in all age groups except the youngest (under 25 years) and the oldest (65 years and over). Over 93 percent owned a car, which is almost a necessity in the semi-rural character of most coal fields. It is clear that these are largely stable family men relatively successful in their work, pointing toward life-long careers in the mines.

Education

The survey revealed that very few miners (7 only) had completed a college education. A major proportion (81 out of 204) had been in school 11-12 years, that is, were high school graduates or nearly so. On the other hand, 77 miners had completed 8 years or less in school.

Table 4
Highest Grade Completed in School, by Age of Miner

Years	Total	Percent	Age of Miner 19-24	25-34	35-44	45-54	55-64	65 +
8 or less	77	37.8	0	5	16	35	17	4
9-10	37	18.0	5	7	7	12	5	1
11-12	81	39.7	17	26	22	14	2	0
College	7	3.5	1	4	2	0	0	0
No Response	2	1.0	1	0	0	0	0	1
Total	204	100.0	24	42	47	61	24	6

It is clear that there is a high correlation between education and age--the younger workers have gone to high school and college, the older workers usually finished their education in grade school. For example, the 7 college graduates were all under age 45. On the contrary, almost three-quarters of the miners who had completed 8 years or less in school were all 45 years of age or older.

Age and Work Experience of Miners

In this industry, more than in most industries in the U.S., age and length of work experience go hand in hand. In general, the older the miner, the greater the mining experience.

Table 5
Years in Mining

Years	Total	Percent
0-5	54	26.5
6-10	21	10.3
11-20	36	17.6
21-30	45	22.0
31-40	35	17.2
41 & Over	10	4.9
No Response	3	1.5
Total	204	100.0

More than one-fourth of the miners had five years of service or less, and among those 54, most were under 35 years of age. A considerable number of these had come into the mines in 1970 and so had accumulated only about two years of work experience in mining. Even among those with 6-10 years of experience nearly three-fourths were under 35 years; only one man was over 45. A miner comes into the industry young and stays for his working life.

Stability of Employment

However, there is considerable mobility within the industry--miners do change employers. Table 6 shows the extent.

Table 6
Length of Employment in Present or Last Mine, by Age of Miner

Years	Total	Percent	Age of Miner 19-24	25-34	35-44	45-54	55-64	65
Less than 1	8	3.9	3	5	0	0	0	0
1-2	46	22.5	14	12	7	9	3	1
3-4	47	23.0	6	12	15	9	4	1
5-9	25	12.2	0	9	8	6	2	0
10-19	26	12.7	0	4	9	11	2	0
20 & over	49	24.0	0	0	6	26	13	4
No Response	3	1.5	1	0	2	0	0	0
Total	204	100.0*	24	42	47	61	24	6

Here we see that none of the 23 young workers with less than five years of experience had been in the mines for as long as five years. Three had been in less than one year and 14 had only one or two years. On this same line, there were 29 in the next higher age group (25-34 years) who had been with their last or current employer for less than five years.

At the upper end of the age scale it is evident that long service with the same company is the prevailing pattern. Nearly one-quarter (49) of the total sample had 20 years or more service with the same employer. All of these, except 6, were forty-five years of age or older. Another one-fourth (51) had been with their last employer from 5-19 years. The great majority of these were 35 years or over. Nevertheless, there is some turnover among these older age groups. At 1-2 years of employment there were 13 miners at 45 years or more; and at 3-4 years 14 other miners--the combination amounting to 30 percent of all miners in the sample age 45 or over.

Men and Machines

More than one-half of the miners interviewed were working in mines using continuous mining machines. Generally, the bigger and more modern mines use these machines, which have the function of cutting and loading a high volume of coal in a single operation. They kick up a considerable amount of dust in the process. This operation is, therefore, considered one of the major risks of black lung, as is noted in the discussion below of the attitudes of the miners toward the dust problem. A total of 82 miners worked in the mines using

conventional coal cutting machines. These too can create a dust problem, especially because they are prevalent in the medium-sized and smaller mines which usually have less dust control equipment. The other methods of hand cutting and hand loading are used in marginal mines, which are rapidly disappearing from the industry.

The miners in the sample were well represented in the high risk occupations.

Table 7
Type of Work

Type	Number	Percent
Face Work	97	47.5
Transportation (at face)	26	12.7
Transportation (away from face)	32	15.7
Outside	24	11.8
Maintenance	8	3.9
Management	3	1.5
Other	13	6.4
No Response	1	0.5
Total	204	100.0

A little less than half of the miners were employed (when they worked) at the face of the mine--machine operators, roof bolters, brattice workers, etc. Another substantial number (26) worked in transportation at the face, and a somewhat larger group (32) in transportation away from the face. Outside work, maintenance and management could be less dusty and therefore less dangerous. In summary, a good majority of these miners could have experienced the dust problem in person.

About half (49.0 percent) of the miners had the experience of working in industries other than mining. Such miners are found mostly in the younger age groups. This checks out with the finding, noted previously, that younger miners had greater mobility than the older. Here is the age distribution of the 100 miners who had worked outside coal mining at one time or another.

Table 8
Worked at Jobs Other Than Mining

Age Group	Number
19-24	16
25-34	31
35-44	18
45-54	25
55-64	7
65 +	3
Total	100

While this group is weighted toward the lower end of the age scale--nearly half were under 35 years--there was a substantial representation of older miners.

However, when this group of 100 was asked to name any other industries or jobs in which they had worked during the past five years, 50 of them reported none during that recent period. This means that many of these jobs were in the longer past, perhaps in the youth of the miner.

For the 50 who had held other types of jobs within five years, 22 were in service industries and 12 in manufacturing. Only 4 had been in farming. The remaining 12 simply reported "other". In general, it is likely that mining represented an advance in earnings and a higher skill.

Furthermore, many of these outside jobs were part-time, possibly some of them double job-holding with mining. Only 10 out of the 50 worked more than two-thirds time, while 20 others worked less than half-time. These statistics show that a significant minority of miners can be employed in other industries.

When the miners were asked the hypothetical question, "If you had a chance to leave mining, would you?", about five out of eight (62.5 percent) replied that they would. These figures seem to indicate that their wishful thinking is stronger than their positive action.

This interpretation is bolstered by the age distribution of those 125 miners who indicated a willingness to move.

Table 9
If You Had a Chance, Would You Leave Mining?

Age Group	Number
19-24	19
25-34	27
35-44	29
45-54	38
55-64	10
65 +	2

Of course, the oldest workers (55 and 65 years) may be prospective retirees who were interested in a post-mining job. But it is surprising to note the substantial numbers in the 35-44 and 45-54 groups (29 and 38 respectively). In the analysis presented in Chapter 5 it is demonstrated that the attachment value to the coal industry of miners age 40 and above is so great that few miners would make the shift without substantial financial support to make up for the values of medical care, pensions and other benefits that would probably be lost in an industry change.

In summary, the miner who has acquired significant length of service in coal mining has such valuable assets in high wages and fringe benefits that in practice he has a strong tendency to stick with the industry until he qualifies for retirement or disability.

Progress of the X-ray Program

The 1969 Act required that every working miner should be provided by the operator with an opportunity to have an X-ray taken, and that all other miners could arrange for X-rays, if they wished to do so. The X-ray was regarded at that time as the sure positive test for pneumoconiosis. Therefore, in this study some key questions were put to the miners about their activities and their attitudes with respect to the X-ray.

Did the miner have his X-ray taken? The answer is that approximately two-thirds of them had done so, while one-third had not. Table 10 shows the answers by age of the miners.

Table 10
Have You Had An X-ray Taken?, by Age of Miner

Response	Total	Percent	Age of Miner 19-24	25-34	35-44	45-54	55-64	65 +
Yes-Company	93	45.6	10	20	23	30	9	1
Yes-Private Physician	44	21.6	2	5	5	16	11	5
No	67	32.9	12	17	19	15	4	0
Total	204	100.0*	24	42	47	61	24	6

These miners were interviewed in February 1972. It is quite clear that, as of that date, there still remained a substantial segment of the mining community which had not been X-rayed. They were primarily the younger miners--nearly three-quarters of that group were under 45 years of age. The company X-rays also showed a substantial majority under age 45, representing broadly the prevailing age distribution of the working miners.

Conversely, the miners who chose a private physician were much older; almost three-quarters of them were 45 years of age or over. This group undoubtedly includes the retired, the disabled and the unemployed, who would not be at the moment on a company payroll. About one in eight of the sample were not employed at the time of the survey. Furthermore, some employed workers definitely preferred a private physician. They could have been concerned about the company discovering their disabilities (if any), or possibly they went to a private physician in order to apply for black lung disability benefits under Social Security. The five miners beyond age 65 would almost certainly have been pointing their efforts toward black lung benefits. Other miners might want to find out their condition without letting their employer know.

Those miners who had not yet had an X-ray taken gave a variety of reasons for their negligence. About one in five expressed concern that the X-ray results would be obtained by the company, possibly jeopardizing their continued employment. A somewhat smaller group had received advice from the union not to take such a risk. No less than 19 of those who had not participated in the X-ray program claimed that they did not have either the time or the opportunity to get an X-ray. But the largest sub-group consisted of 25 persons (12.2 percent) who gave no well-defined reasons for their failure.

The next question required the respondent to face the issue indirectly, namely, should the miner get an X-ray? The table below shows that about four-fifths of the miners are firmly in favor of X-ray examinations. The other 20 percent either refused to answer, had no opinion, or were definitely opposed. Most of this last group responded with a "don't know". It seems evident that only a small minority of miners are firmly opposed to the X-ray program as it is now conducted.

Table 11
Should a Miner Get An X-ray?

Response	Number	Percent
Should get an X-ray	163	79.9
Should not get an X-ray	4	2.0
Refused to answer	8	3.9
Don't know	28	13.7
No response	1	0.5
Total	204	100.0

The confusion in the minds of the miners on the general subject of X-rays is shown very clearly in the answers to some attitude questions. When asked "Are X-rays the best test for black lung?" the miners responded in three substantially equal groups.

Table 12
Are X-rays the Best Test for Black Lung?

Response	Number	Percent
Yes	65	31.9
No	69	33.8
Don't know	70	34.3
Total	204	100.0

But that "yes" group melted away when responding to a subsequent question (paraphrased), "Are there better tests than the X-ray?" A total of 170 (83.3 percent) agreed that there were better tests, leaving only about one-sixth (16.7

percent) who thought not or who failed to answer. Yet this last group comprised only about half of those who earlier thought X-rays were the best. Some miners who would accept the X-ray as conclusive nevertheless decided, on second thought, that there might be better tests.

Then finally, the miners were asked about other tests than the X-ray. They responded as follows.

Table 13
What Do You Think Would Be a Better Test?

Type of Test	Number	Percent
Blood-gas test	84	36.5
Breathing test	74	32.2
Miner's word	41	17.8
Doctor's word	31	13.5
Total	230	100.0

These answers were not exclusive; a miner could answer "yes" to several of these, if he wished.

Of course, the miners themselves could not be expected to have expert judgment on such strictly medical matters. That series of questions was asked in order to find out the extent to which the miners were aware of the medical controversy over which tests are valid determinants of black lung. One school of medical opinion believes that evidence of coal dust, appearing as nodules in the lungs, as shown by an X-ray, is proof positive of pneumoconiosis. The other school does not dispute that point, but argues that the blood-gas test, or the breathing test, may provide sufficient evidence of the disease, even though an X-ray does not yet show it. This view found expression in the 1972 Act which provides that a negative X-ray cannot be used to deny black lung benefits, but must be supplemented by other tests.

It is clear that at least some of the miners were aware of this controversy. They knew that a positive X-ray was proof, but they thought that other tests must be used, if the X-ray was negative. In one way these miners' attitudes foreshadowed the congressional action several months later when this viewpoint was enacted into law. This debate underscores the need for more research on the detection methods for the presence of pneumoconiosis in a miner's lungs.

Health and Safety Hazards

Next we turn to problems on which the opinions of the miners have more weight, namely, health and safety conditions in the mines. Since coal dust is by definition the sole cause of pneumoconiosis, the miners were asked if dust was a problem in the mines in which they worked. Except for a handful who thought it was not, all agreed that dust was a problem, and a substantial majority (60 percent) thought it was a major one. At the time of this survey, the FCMHSA dust suppression program had been underway for about two years. The standard for maximum exposure to respirable coal dust then was 2 milligrams per cubic meter. At that time the Bureau of Mines reported that over 90 percent of the mines were at or below that level of dust concentration.

Table 14
Is Dust a Problem?

Degree	Number	Percent
Major problem	125	61.3
Somewhat of a problem	25	12.3
Minor problem	44	21.6
Not a problem	8	3.9
No response	2	1.0
Total	204	100.0*

Since the miners' attitudes reflect their own experiences, we conclude that about three out of five miners were fully aware of the problem, whether or not they were currently in what they regarded as a dusty job. On the other hand, over one miner in five (21.6 percent) thought it was only a minor problem. It is probable that those men have been working in mines with modern dust suppression techniques or on jobs which are not dusty.

It is difficult to obtain any precise information on the numbers of miners still exposed to substandard air because there are many variables. Some jobs require much more exposure than others. Other jobs involve periodic exposure. Some mines are clean throughout; others are not. A mine may be clean at one time, but below standard later on. Miners, asked to express their judgment, would rely heavily on their own personal experiences, heavily weighted by past history as against the conditions of the past two years.

The next question focused on the jobs which miners consider to be dusty. A short list of jobs was presented to the miner for him to indicate whether they were among the most dusty, with an open-end question for him to name any others.

The list of dusty jobs were those around the face of the mine. A total of 85.3 percent responded that the job of the continuous mining machine operator was among the most dusty. A much smaller proportion (about one-fourth) also named roof bolter and motorman. But only a scattering of other jobs were volunteered by the miners.

The miners were then queried as to what they considered the best method of keeping down the dust in the mines. One suggestion was more rock dusting; another was the use of respirators to keep the dust out of the lungs. A third was water spraying. Then they were asked to specify any others they thought useful.

An overwhelming majority of the miners (94.1 percent) selected water spraying as the best method. That was in a class by itself. About one-fourth of the miners thought that more rock dusting would be helpful, in addition to adequate water spraying. But less than 7 percent thought that respirators were a useful device and only about 13 percent voted for ventilation. This last opinion is of interest because in many of the big mines ventilation is a very important method. However, it is less visible than the flow of water.

On the outlook for bringing dust completely under control (and therefore eliminating black lung) the miners on the whole were skeptical or pessimistic. In response to the question as to whether a miner could stay in the mines and yet get away from dust, about 85 percent thought that he could not. Only one miner in seven (14.2 percent) thought that the miner could get away from the dust. Theoretically, the law requires that the dust problem be entirely eliminated; but the miners do not believe that it can be done.

However, more than three-fourths (154) of the miners were of the opinion that the dust problem in the coal mines had improved since the passage of the Federal Act, but they varied widely in assigning responsibility for this outcome.

Table 15
Reason for Improvement in the Dust Problem

Reason	Number
Men work safer	22
Company more cautious	32
Union more cautious	26
More (better) inspections	97
Improved technology	34
Other (specify)	21
Total	232

The clearly prevalent response is that the major factor has been inspections, since 97 out of the 154 respondents designated that factor, often without naming any other. The other significant point is that many respondents named more than one cause, some naming two, three and even four. These responses show that the human factors have all done better since the law was passed--men, company, union. But some miners (34) were impressed with the mechanization designed to achieve clean air.

At the same time, a substantial minority (50) either thought that there had been no significant improvement in the dust problem or simply refused to hazard an opinion.

There are risks in the mines other than black lung. So in order to broaden out the inquiry, we asked the miners for their opinions as to what were the most serious problems facing miners, whether dust or something else. Table 16 gives the results.

Table 16
Most Serious Problems Facing Miners

Problem	Number	Percent
Dust	73	35.8
Roof falls	42	20.6
Dust & roof falls	16	7.8
Machinery	12	5.9
Gas	2	1.0
Other	10	4.9
No response	49	24.0
Total	204	100.0

This is another case in which about one-fourth of the respondents failed to give an answer, implying that they have no opinion. Among those who did respond, dust takes first place by a substantial margin--about one-half of those who responded. In addition, there were another 16 persons who rated dust and roof falls equally. Roof falls ranked second to dust and the additional 16, who ranked them with dust, strengthens the roof-fall contingent. In summary, these two hazards dominate underground mining in the view of the miners themselves--one being a health hazard leading to black lung and the other an accident hazard leading to death and disability.

The Miner's Choices

Since the vast majority of the miners in the survey were currently employed, and further since a majority had already been X-rayed, we posed the key question, "Should a miner opt out of his job, if he should be notified that he has black lung and is eligible to request a transfer?". To that crucial question there was only one non-response.

Table 17
Should a Miner Opt Out?

Reaction	Number	Percent
Request transfer from company	84	41.2
Ask union for help	50	24.5
Apply for Social Security Benefits	25	12.3
Tell Black Lung Association	20	9.8
Don't tell anyone	16	7.8
Tell buddies	3	1.5
Quit job in mine	3	1.5
Other	2	1.0
No response	1	0.5
Total	204	100.0*

It is surprising to learn that two miners in every five (41.2 percent) said that they would request the company to give them another job. In actual practice, as we learned from the operating data on the black lung program, only a small proportion of those entitled to opt out actually made the attempt. The probable answer to this discrepancy is that many of the respondents to this question had not been actually faced with the problem. They were giving an opinion, not making a personal decision. It may be possible to infer, however, that given a fair chance and adequate assistance, 40 percent of black lung victims would prefer to continue working rather than retiring from the labor force.

Note that about one-fourth of them would go to the union for help. However, in that situation the miner seeking to opt out would run into the seniority principle--would other union members have a prior claim on the job? About one in eight of the miners would apply for Social Security black lung benefits, which means leaving the industry. These were primarily older workers who would choose disability retirement, if that were available, rather than stay in the industry by transferring to another job.

About 10 percent of the respondents would consult the Black Lung Association, of which they may be members. But another 10 percent would not tell anyone, except possibly some fellow workers.

These responses demonstrate that the miners do not think that they have any one source of expert advice on which they could call to help them with their decision--if they have the opportunity to make one.

We then followed up with the question as to whether the miner knew of anyone who had tried to get a transfer. Approximately one-fourth (50) stated that they had known some one. This could have been the respondent himself in some cases. Because probably not more than 5-6 percent of all active miners had actually received notices of eligibility to transfer when this survey was made, it can be inferred that the miners confer among themselves about what they should do if they have black lung.

What happened? Did the transfer take place? The miners knew of only 10 out of the 50 who had been successful. In view of the large numbers of miners in the communities where the sample was taken, and with the known "grapevine" communication, the data here seem to confirm the operating data from the program--very few miners have the opportunity to opt out, and only a fraction of the eligibles actually achieve it.

Service Agencies as Resources for the Miners

There are many service agencies available to assist the miner in his problems. Some are governmental--Federal, State and local; others are private. To what extent does the miner know about these agencies and to what extent does he call upon them? The purpose of this series of questions was to determine what services are available or might be needed to increase the miner's employability.

1. Employment Service

One agency which the miner is sure to know about, and occasionally to use, is the State Employment Security Agency, comprising the employment service and the unemployment insurance program. Anytime the miner is laid off, he can go to the nearest local employment office to register for work and to get unemployment insurance benefits if no jobs are open.

Although subject to fluctuating economic conditions, unemployment among miners is no longer the serious problem that it was in the longer past. When asked whether they had ever drawn any unemployment benefits, two-thirds (135) of the respondents said that they had. But when asked about being out of work at any time within the last five years only about one-fifth had been unemployed during that period. Table 18 shows the numbers of unemployed during the past five years.

Table 18
Unemployment Within the Last Five Years, by Age of Miner

Response	Total	Percent	Age of Miner 19-24	25-34	35-44	45-54	55-64	65 +
Yes	43	21.0	12	7	11	8	3	2
No	161	79.0	12	35	36	53	21	4
Total	204	100.0	24	42	47	61	24	6

The comparative stability of the older workers in the mines is clearly pinpointed by the age distribution. Out of 91 miners age 45 or over only 13 had reported some unemployment, one out of seven. Among the 19-44 groups, the proportion was 30 out of 113, or about twice the risk of unemployment of the older group. Of course the major concentration of unemployed was among the young workers under age 25. That is not surprising, since these workers have less seniority and therefore less security. In another table we discovered that, with one possible exception, that entire group (under age 25) had had mining experience of five years or less. So their unemployment rate was even higher than the data show, because some of the group had entered the labor force within that five year period.

Did the employment service refer the unemployed miners to any jobs? About half (21) of those who had been unemployed had been referred to jobs by the local employment office. The miners accepted two-thirds of the openings, but refused the other 7.

It is necessary to understand the job market in the coal industry in general, and in Appalachia in particular. First, an unemployed worker drawing benefits is subject to referral to any job for which he is qualified. So all 43 were subject to that possibility during the periods that they were drawing benefits. However, many coal miners are working in occupations specific to the coal industry and would be referred only to job orders from coal operators. That avenue is partially closed in the union mines, because the collective bargaining agreement provides that management-labor teams set up in the area can recruit and place miners without the benefit of the local employment office. We did not find out the nature of the jobs to which the unemployed miners were referred. Most likely some of them (perhaps the refusals) were outside the coal industry. Few miners leave the industry as long as they are in good health.

In response to a question as to whether the Employment Service does a good job in finding work for unemployed people, the same 21 above indicated that the service did so (after all, they were offered jobs). But the rest of the respondents were badly split.

Table 19
Does Employment Office Do a Good Job
In Finding Work for Unemployed People?

Response	Number	Percent
Yes	21	10.3
No	102	50.0
Don't know	81	39.7
Total	204	100.0

Obviously, those who had been unemployed and not referred (the other 22 men out of the 43) would not think the Employment Service did a good job. Among the remaining 183, there probably were some who had had similar experiences more than five years previously (that is, no referrals to jobs). Altogether a total of half the respondents did not think that the Employment Service did a good job, whether for them personally or for other unemployed.

But perhaps the most distinctive answer to this question is "don't know". The fact is that the local employment offices have had relatively little opportunity to place miners in the coal industry (possibly excepting the last few years), and the miners do not think of the Employment Service as a placement agency. They really do not know whether it is effective or not.

2. Workmen's Compensation

State workmen's compensation exists to pay benefits to workers injured or disabled on the job. Benefits are payable for death, for total disability or for partial disability. Those benefits may be payable in a lump sum or in the form of monthly benefits for a period of years. The State laws vary widely as to coverage, benefits, methods of payment, etc.

The National Commission on Workmen's Compensation,who issued their report in 1972, reviewed the State laws and made recommendations for standards to which the States should be required to conform. These standards can be taken into account in congressional legislation. The Occupational Safety and Health Act

of 1970 assigned to the Department of Labor the responsibility of developing the standards and writing the regulations. The objective of the legislation is to produce greater uniformity and comparability among State laws.

The average miner comes in contact with the State Workmen's Compensation agency whenever he has a work injury for which he could be compensated, either temporarily or permanently, partially or fully. The accident rate in the mines measures the number of miners who would have occasion to apply for workmen's compensation benefits. The following table shows the number of miners with their own cases plus those who know about others--all three groups (including "no") classified by age.

Table 20
Have You Had Anything to Do With
Workmen's Compensation?, by Age of Miner

Response	Total	Percent	Age of Miner					
			19-24	25-34	35-44	45-54	55-64	65 +
Yes, self	55	27.0	2	4	10	23	11	5
Yes, others	26	12.7	5	4	6	9	2	0
No	123	60.3	17	34	31	29	11	1
Total	204	100.0	24	42	47	61	24	6

Slightly more than one-fourth of these miners had had personal contact in their own behalf. It is quite natural that the proportion of users rises sharply with age. At 65 years, five out of the six miners in that age group had had some contact with workmen's compensation. In ages 55-64 nearly half the miners had been in touch. However, the proportion shrinks with the younger age groups, with only small fractions reporting under age 35. On the other hand, those miners active on behalf of others were well represented in the younger age groups. These activities covered representations on behalf of friends and relatives.

Turning now to the whole group who had had any experience with workmen's compensation we find that, out of the total of 81, nearly one-third (25) recorded an opinion that the compensation agency was fair and impartial. However, over two-thirds (56) thought that they were not.

We followed that up with a question on the problems with workmen's compensation from the miner's point of view. Unfortunately, over half (43) of the

81 did not respond. Among the remainder most of the complaints arose from the belief that the agency underestimated the degree of disability suffered by the miner. It is known that the States do grant a considerable number of partial disability awards, which enable the miner to keep on working in the mines. Some of these payments are small, perhaps nominal only, but may give the miner an income that he can supplement by working. The two other complaints were administrative--agency too slow in making determinations and too slow later in making payments.

How did these miners find out about workmen's compensation? Again, nearly half did not respond at all. There were 14 who had been referred by the company and 11 by a doctor (who may have been the company doctor). We don't know who the "others" were, but our judgment is that they were mostly fellow workers, including the union representatives.

3. Vocational Rehabilitation Centers

A vast majority of the miners did not have any experience of dealing with the vocational rehabilitation centers. The reason for this may be that they were not disabled and did not seek the assistance from that source. Two miners who did get help from vocational rehabilitation centers indicated that the services provided by centers were very helpful. One of them had received an artificial limb and the assistance received by the other was not disclosed. Nine miners, who themselves had not received any help from vocational rehabilitation centers, did know some workers who had obtained such assistance. The types of services received included training as butchers, electricians, and welders.

The survey data indicate that the locations of the vocational rehabilitation centers were not very far away. Ninety miners knew that the vocational rehabilitation center was located at a distance of 25 miles or less from their respective homes. Thirty-seven were aware that such a center was located beyond 26 miles. Since automobiles were available to most of the miners surveyed, the centers appear to be readily accessible.

4. Government Job Training Programs

The survey results indicate that either there were not many government job training programs in the various areas in which the miners were interviewed, or else that there was not effective communication about the existence of such facilities in the mining areas. Only 20.6 percent (42) of the miners were aware that government job training programs existed in the area.

Further, out of those 42 miners, 35 knew about the nature of these programs whether they were mine-related or not. The following table indicates the preferences of miners for job training out of the mining industry.

Table 21
Preferences of Miners for Job Training

Type of Job Training	Number
Electrician	21
Mechanic	20
Construction	11
Heavy Equipment	10
Total	62

Apart from heavy equipment, all the other jobs are related to job categories in mines. The occupation of an electrician was most popular among the miners. The likely conclusion is that the miners would find it more convenient to shift to jobs out of the mining industry similar to those which they had been performing while in the mines. The miners seemed to think that could be readily accomplished. They gave no indication of being aware of licensing or hiring standards which might limit their job possibilities.

5. Social Security Benefits

The miners had a favorable overall impression of the Social Security services. Thirty-seven miners had dealt with the Social Security Administration offices directly and an additional 73 knew about their operations through friends and relatives. Out of that 110, more than half (54) thought that the Social Security Administration had been cooperative, but 48 answered "no". This split in judgment undoubtedly reflects the dissatisfaction of miners who were denied black lung benefits because their X-rays did not confirm the existence of black lung. A survey made following the passage of the Black Lung Benefits Act of 1972 would undoubtedly show different results, since the earlier denials of benefits are being re-examined.

Attitude Toward Work in the Mines

Finally, the miners were asked to respond "yes" or "no" to a series of statements concerning miners and mining. Examples are (1) miners work harder than workers in other occupations; (2) mining has gotten better over the past few years; etc., etc.

Miners of all categories, with few exceptions, are firmly convinced that they work harder than workers in other occupations. Three-fourths of the sample also believe in the dictum "once a miner, always a miner". About one-fifth thought that conditions in the industry had not improved in the last few years. About 19 miners out of 20 (94 percent) are convinced that the mines are more dangerous than the general public thinks.

In general, there is a high degree of consensus among the miners on many subjects bearing on their relationships to other industries and to the public. Their viewpoints reflect the unusual conditions under which they work and the isolated communities in which they live.

Chapter 3

THE COMMUNITY AGENCIES AND THE BLACK LUNG MINER

Introduction

A mining town is often an isolated community located on the hillside or in the valley of a coal area, far removed from the urban centers of a State. Some towns are located on the outskirts of metropolitan areas, but even so they are often adjacent to, rather than an integral part of, the larger urban community. One question posed for this study was, What are the community resources to which the miner could turn for assistance when he finds that he has a black lung problem?

The purpose of this phase of the study was to find out what agencies or offices in the community (local, State or Federal; public or private) would provide any direct advice or services to the miner afflicted with black lung. It was equally important to learn to what extent the miners in general made any effort to use that advice or those services.

The method used in this survey was not to attempt the collection of quantitative data by a statistical questionnaire, but rather to sample the attitudes and experiences of the agency heads and other citizens concerning the working of the black lung program in the community and, more particularly, the functioning of their respective agencies in relation to the needs of the miners.

Some of these agencies were local offices of Federal or State agencies, such as the local employment office engaged in finding jobs or paying unemployment benefits, or the local vocational rehabilitation office with its programs of rehabilitation. Another example is the local public welfare office representing the Federal-State welfare system.

On the other hand, there were also private agencies, such as the local Tuberculosis Association. One influential agency is the local office of the United Mine Workers Union. Private citizens were also included in the study--doctors, lawyers, professors--when they had some connection with the black lung problem. This chapter is a summary of the attitudes and opinions of representative officials in local communities in the coal mining areas of Pennsylvania, West Virginia, Eastern Kentucky and Virginia.

1. State and Local Employment Services

In the day-to-day operations of coal mining the Employment Service probably has more contact with individual miners than most other agencies. Whenever a miner becomes unemployed he goes immediately to the nearest local employment office to file a claim for unemployment benefits. At that time he must also register for work. So, during his term of unemployment, however long that turns out to be, he is in continuous weekly contact with the employment service facilities for getting him a job or paying him benefits.

In addition, in times of business recession, Congress makes provision for extended unemployment benefits for those workers who have exhausted their regular benefits without finding a job. Miners would be eligible.

However, in this review of local community sentiment our interest was in the functioning of the agency in connection with the black lung benefits program. And on that subject local employment office officials have relatively little knowledge about applicants with black lung. For example, if a miner, having been notified that he has a touch of black lung, shows up in the local office and inquires about jobs, he will not disclose his affliction; therefore, the local manager is in the dark when he refers the miner to a job. Nor would the miner be likely to consult the local office manager on his decision with respect to opting out of his present job to transfer to another one in the same mine. Therefore, local employment office officials are not well-informed on the scope of the black lung program or on its problems.

In those employment offices located in heavy coal mining regions (Harlan, Kentucky; McDowell, West Virginia; and Cambria, Pennsylvania) the local staff seemed more knowledgeable than the average. However, even in those offices the officals could report only a few cases in which an individual miner with some black lung impairment came to them for services. Even in Welch, West Virginia, where large union mines operate and where layoffs are fairly common, little was known about the black lung miner. When miners apply for unemployment benefits, they must fill out the application form, which has a section pertaining to disabilities. But the miners are not volunteering any black lung disability information. Yet the only way the local employment office can find out if a miner applicant is afflicted with black lung is to have him volunteer the information.

This cautious stance on the part of the black lung miner can be attributed to several factors. First, the miner with less than disabling pneumoconiosis can not qualify for black lung benefits under Social Security; his only benefit is the opportunity to transfer to another job in the same mine. The employment office has no responsibility in that procedure. Second, he fears that the disclosure

of this information may hamper his chances for employment in the mining industry. Third, the risks facing the miner who leaves the mining industry entirely are very real:

(a) The miner might require training for another occupation. In many coal areas of Appalachia there is no major industry other than mining.

(b) In heavy coal-producing counties, such as Pike, Kentucky and McDowell, West Virginia, the best wages are in mining. A Mine Workers Union official in Johnstown, Pennsylvania attributed the heavy influx of young people into mining as being partly due to the high wages being offered.

(c) If an individual were to be retrained, and desired top wages in another industry, he would usually find it necessary to move to an industrial area with high blue-collar employment. This reluctance of miners to relocate was reported in the miner attitude survey and in the agency interviews in this study.

(d) Public welfare representatives in Pennsylvania, West Virginia, and Kentucky stressed the importance of the union medical card to the miners and their families. That card assures them of medical and hospital care. Taking a job outside the mining industry would also mean sacrificing the years earned toward a miner's pension.

Although the reluctance to seek a transfer to another mine job is prevalent among the younger miners, there is no such reluctance to seek permanent retirement by the older miners. Those miners qualifying for black lung benefits generally decide to take them.

For the older miner, then, the subject of black lung benefits becomes a common item of discussion on the street corner and at social gatherings. One Vocational Rehabilitation representative said that the subject of black lung is so much a part of the lives of the miners that an air of bitterness can develop between old friends when one is granted benefits and the other is not.

Therefore, a miner with more than 10 or 15 years in the mines, who has had X-rays taken, has been examined by his physician and is found to have simple Category III or complicated pneumoconiosis, will usually start proceedings for his disability benefits. In doing so, the miner is taking some risk. He has to quit his job in order to qualify for benefits. If he fails to get benefits, the chances

of his being rehired by the same firm are slim. He has little likelihood of finding a good job in another industry. Since many of his neighbors and friends are receiving black lung benefits, he has every incentive to appeal the case and try again.

The miner who is out of work can apply for unemployment benefits. Employment Service representatives report that some miners apply for benefits while waiting for their applications for black lung benefits to be processed. Of course, such a miner must be registered for work and is subject to referral to job openings for which he is qualified.

In some cases the applicant might be carried on unemployment insurance until his rights have been exhausted, or until the black lung award comes through. However, to guard against paying the unemployment benefits to a worker who is not really in the labor market, employment offices in Pennsylvania require the individual to report to the office in person every two weeks. In West Virginia, in addition to reporting every two weeks, the claimant must actively engage in finding work.

The general feeling among local employment office representatives in the four states visited was that there is little which can be done for the older disabled miners who are out of work, especially those who have applied for black lung benefits. Conversely, counselors and representatives of several community agencies reported that, when and if the younger miners can be reached, the chances for rehabilitation and eventual job reassignment are good. This view was expressed by local employment office personnel in Pennsylvania, Virginia, and Kentucky, and by Vocational Rehabilitation representatives in West Virginia and Kentucky. In one community in Virginia, the VR representative stated that out of 422 applicants referred to the agency, only 50 percent were accepted for the programs available. A lack of interest by the individual, when interviewed for the program, was the major reason cited for denial.

As mentioned earlier, a significant finding in the employment offices visited was that there is no information about miners with black lung who may be receiving unemployment insurance or placement services. The heaviest coal mining regions in the nation were visited, and there must be some black lung miners being processed through the local employment offices. But to work effectively with this group of workers, the Employment Service must have some means of finding out who has the disease. A representative of the Black Lung Association in Charleston, West Virginia suggested that the miners are extremely reluctant to volunteer any such information to strangers. This sense of secrecy was also reported by a representative of the United Mine Workers Union.

2. U.S. Public Health Service

Dr. Keith Morgan, Chief of the Appalachian Laboratory for Occupational Respiratory Diseases and a number of his professional staff were interviewed in Morgantown, West Virginia. ALFORD is one of the six operating divisions of the National Institute of Occupational Safety and Health. ALFORD has the responsibility for approving the plans for X-ray programs provided by the coal mine operators for their workers. It is also the agency designated for processing and classifying the X-rays of all workers X-rayed under the program.

For the future, ALFORD will soon be processing the second round of X-rays, which must be offered to all active miners as required by law. The agency also has research plans focused on the incidence and progression of black lung under varying conditions.

The major issue which has arisen around the X-ray program is whether the X-ray in itself is fully definitive of the disease. Critics of the program have contended that the X-ray alone is not a sufficient test for the existence of black lung, and that additional tests are required. When this community survey was being conducted in the spring of 1972, this issue had not been resolved, either medically or administratively. But Congress decided the administrative issue in the Black Lung Benefits Act, signed by the President in May of 1972, by providing that a negative X-ray cannot in itself constitute grounds for denial of benefits, but must be supplemented by other tests.

3. Social Security Administration

The Social Security Administration has contact with miners filing for old age benefits, regular Social Security disability insurance, and black lung benefits. When miners report to local Social Security offices to make application for black lung payments, these offices are responsible for having the claims developed medically and for forwarding them to the Bureau of Disability Insurance in Baltimore, where all decisions are made as to whether or not the claim will be awarded.

The Social Security Administration has been criticized for its delays in the processing of black lung claims. Reference to the case studies in Chapter 4 will show the miners' concern over the long periods of time taken for decision-making. It should be noted, however, that, with the passage of the FCMHSA, many thousands of disabled miners came to the Social Security local offices to file for their disability benefits. Considerable time was required to obtain medical evidence, review the claims, and make decisions. Social Security officials reported that considerable numbers of X-rays submitted as medical evidence had

to be rejected, either because they were not current films, or because they were poorly taken by physicians lacking expertise in the taking and reading of X-rays. A delay occurred whenever a new X-ray had to be requested. Eventually the initial bulk of the claims were processed, and the number of incoming applications declined. Administrative arrangements were also made to speed up the processing.

However, the enactment of the Black Lung Benefits Act of 1972 placed another heavy work load on the Social Security Bureau of Disability Insurance. That law provides that, retroactive to the beginning of the benefits program, no claims can be denied solely on the basis of a negative X-ray; therefore, the Bureau must review all claims previously denied and obtain any necessary supplemental tests before making a decision based on the new law. Also, the new law provides that a miner with 15 years of experience in the mines, is considered to be totally disabled by pneumoconiosis if he has a disabling pulmonary or respiratory impairment, even if his X-ray is negative for black lung. Tests for determining pulmonary impairment include the simple breathing test, administered while the miner is at rest.

4. Workmen's Compensation

The Workmen's Compensation agencies visited in the four states are composed of referees, who hear the cases, and a Review Board which adjudicates claims for approval or denial. Representatives of the compensation agency assert that the officials reviewing the claims are fair and impartial. Nevertheless, it is standard procedure for a miner applying for benefits to retain a lawyer. The laws and regulations are so complicated that the worker thinks a lawyer is needed to present his case. Furthermore, if the claim is contested by an employer, the miner will nearly always want a lawyer to protect his interests.

Once the lawyer has substantial evidence, he files claims for benefits, which can include workmen's compensation under State law, as well as black lung and/or general disability benefits under Federal law. If and when the claims are approved, the lawyer may take as his fee 20-25 percent (or more) of the payments the individual miner will get from the benefits.

The problem is whether such legal representation is necessary. The Social Security Administration advises its applicants that legal representation is not necessary; furthermore, that agency restricts the fees that may be charged by lawyers. However, miners experiencing long delays in the payment of black lung benefits often turn to a lawyer to speed up the decision. This is an aspect of the black lung program which could not be fully explored in this study, but reports from the local communities indicate that it is a problem.

Some officials representing Workmen's Compensation questioned the payment of Federal black lung benefits to miners on grounds of equity. They expressed concern about miners getting black lung benefits, while workers in other hazardous occupations receive none. Similar attitudes were expressed in other regions of Appalachia by individual citizens with no ties to the coal mining industry. This is an issue which will come out in the open when the Occupational Safety and Health Act administered by the Department of Labor is applied to other industries.

5. State Vocational Rehabilitation Agencies

Vocational Rehabilitation representatives interviewed in West Virginia, Pennsylvania, Virginia and Kentucky reported that they were having little success recruiting either the active miner with early signs of pneumoconiosis or the miner who has been denied benefits. All were in agreement that, if the younger miner with Category I or Category II pneumoconiosis could be reached before his condition worsens, rehabilitation is possible. The hurdles facing the rehabilitation counselor, when working with older miners, especially those engaged in seeking benefits, are far more extensive.

Many of the referrals that VR receives are in the older age bracket (45-55). VR representatives, based upon interviews with prospective clients, compiled a list of factors militating against acceptance of rehabilitation by the miners.

(a) Old age - He may be physically unable to handle hard work. Employers are reluctant to hire older individuals, if they have access to younger employees. The counselors report that it is difficult to rehabilitate older miners in poor health.

(b) Low education - Some older miners cannot read or write. Others have only a grade school education. Many of the applicants for retraining are so poorly educated that they are unable to do the necessary reading required for many retraining programs. One VR representative mentioned a new program which would provide the individual with the minimum amount of reading and writing necessary to prepare him for retraining.

(c) No desire to relocate - As mentioned in the discussion of the Employment Service, it is difficult to convince the

miner that he should relocate for work in another community. This applies especially to the older miner, who is certain to have strong family ties and who usually owns his home.

(d) Poor job prospects - Even where there is some other industry, the limited education and skills of the older miner narrow his chances of employment. It was noted that the older members of the community usually hold service jobs, such as parking lot or gas station attendants.

(e) Good friendships - Over the years, the miners have established strong peer group relationships. They have worked together for years. These personal relationships are not easily transferable.

(f) Transportation - Highways in Southwest Virginia, West Virginia and Eastern Kentucky are very poor. Many miners live in hollows and on hillsides with not much more than a trail for a road. A VR counselor in West Virginia commented that he was reluctant to take his car into the hollows for fear of teaing the bottom out of it. Some of the older miners do now own cars. Public transportation in Appalachia is limited. A trip to take a physical examination 50 miles away is a major undertaking. An applicant for retraining may also be reluctant to go 25 or 50 miles for classes.

(g) No way of subsidizing the miner while he is being trained - Almost everyone interviewed in VR agreed this is the most immediate problem in retraining a miner of any age. There must be enough economic inducement to prove that it is worthwhile for him to participate in rehabilitation.

In Pennsylvania the attitude among the VR representatives was one of cautious optimism, which was not the opinion of the VR agencies visited in Virginia, West Virginia, and Kentucky. However, Pennsylvania is operating a federally funded pilot project, which could account for their optimism. VR agencies in other states expressed their desire to obtain similar funds in order to have a well-rounded program for black lung miners.

The approach used in Pennsylvania has not been very successful as yet, and other means of reaching the miners are being investigated. When miners were invited to the agency to hear about the programs available to them, only about one-third showed up. After hearing the speakers, who represented various

state and federal agencies, the most prevalent question was "Why is my neighbor getting black lung benefits and I am not?" It is worth noting here that many victims of pneumoconiosis do not, visually, appear to be handicapped. Rehabilitation, Employment Service and Welfare representatives all agreed that when a miner has the opportunity to retire on black lung benefits, he has little incentive to enroll in a retraining program. For those miners who do choose retraining and rehabilitation the most successful placement is in institutional maintenance, e.g., night watchman, janitor. There has been such a low influx of active younger miners into VR programs that there is little evidence of their placement opportunities.

6. State Welfare Departments

For the most part, the black lung coal miner who receives welfare assistance does so during the period he is awaiting benefits under other regulations and agencies. Most of the welfare counselors reported that the welfare agencies have an interest in assisting the individual miner in qualifying for benefits. The welfare assistance given an individual seeking benefits generally consists of medical care and food stamps. Once the miner receives his black lung benefits the cases are closed. There has been very little contact between younger active miners (who may have indications of early pneumoconiosis) and the local welfare agency.

In addition to providing public assistance, the welfare agency informs the individual of the benefits available to him and the procedures for obtaining them. However, most applicants are well briefed by lawyers, the union, and friends before applying to the welfare agency. Therefore, the primary use of the welfare agency is to serve as a means of tiding the family over until the other benefits begin.

7. United Mine Workers of America

In most local communities the union works closely with State and Federal agencies. A union representative in Pennsylvania felt that the VR program was good; he would not hesitate to make referrals there. In other states, union representatives felt that the present VR programs were not so successful. However, on the whole, representatives of the union regarded VR as a necessary and much needed agency. All the VR agencies visited confirmed a good working relationship with the union.

Interviews with local union representatives indicated that there is no pressure exerted on the miner to stay in the mines. If a miner thinks that it would

be in the best interest of his health to leave the mines for another occupation, the union would make every effort to start him in that direction.

Some union representatives anticipate difficulty in the exercise of the miner's option to change jobs in the mine. The miner has the option, and the owner has the responsibility for the transfer. But there may be no vacancies, and workers with seniority cannot be deprived of their jobs.

The union's concern for the active miner has been demonstrated by its strong stand regarding the confidentiality of X-rays taken under a coal mine operator's plan. The FCMHSA requires that all operators provide an X-ray examination for their employees who wish to participate. The union, at one point, believed that some of the physicians approved to take and read X-rays were also consulting physicians to the coal companies. As a result, the union discouraged some of its members from participating in the program in certain companies. On the other hand, it has fully endorsed the X-ray program of the National Study of Coal Workers' Penumoconiosis, which is conducted entirely by the U.S. Public Health Service.

Thus, the transfer option, available to miners with at least Category II of simple pneumoconiosis, does present problems for the miners and the operators. Although local union representatives state that miners wishing to transfer out of the mining industry will not be pressured to remain, the union does not encourage eligible miners to request a transfer within the mines. Job changes of this nature could disturb the seniority system of bidding on available jobs. Of course, the afflicted miner can still bid under the seniority system. In order to retain his pension and medical coverage available through the UMWA Welfare and Retirement Fund, a miner might elect to remain on his present job, regardless of his impairment, rather than attempt a transfer, with all the risks and possible disruption which that entails.

8. Other Community Agencies

Council of Southern Mountains

The Council of Southern Mountains is funded by the Office of Economic Opportunity. It reaches low income people throughout the Appalachian Region. In the Welch, West Virginia area some 20 community centers have been established in rural areas. The Council representatives professed excellent rapport with the miners in the area. (Representatives of a local welfare office said that the Council was geared mostly to low-income blacks).

The real value of this agency is its ability to reach the miners where they live. The counselors refer individuals to agencies which best suit their needs. A local VR representative frequently goes to the centers for referrals. The Black Lung Association has permanent liaison in many of the centers. When transportation is needed, the agency provides it.

This agency appears to have the ingredients which many others do not, namely, the ability to maintain the miners' confidence and trust. A local VR counselor stated that he frequently uses the center as a means for attracting recruits into Vocational Rehabilitation programs. By taking advantage of the rapport already present at the centers, he not only saves time trying to locate the prospective client, but also finds that much of the suspicion usually directed toward strangers by the miners (or "hill folk") can be avoided.

Black Lung Association

The Black Lung Association members think that the recent black lung legislation is good; the job now is to have it properly implemented. In their judgment the miners do not trust many medical examiners. They would prefer to see a mobile clinic, established and sponsored by the Black Lung Association, prepared to go to remote areas to administer physical examinations. Those found to have black lung would be sent to a central location for extensive examinations.

Tuberculosis Association

A local office of this private organization was visited in Pennsylvania. It is sponsored by the United Fund. The main purpose of the organization is to set up emphysema clubs for those people with severe breathing impairments in the community. The clubs serve as a social gathering place as well as an informative agency. There is no formal screening process for participants; it is strictly voluntary. Limited funds are available to those in need. The club asks private physicians to encourage their pulmonary patients to attend. Occasionally, speakers lecture to participants on how to live with their condition. Such a program is needed, the representative stated, because many people afflicted with emphysema are reluctant to leave their residences.

Chapter 4

CASE STUDIES OF DISABLED MINERS

This phase of the study was designed to find out what individual disabled miners actually did when they pressed their claims for benefits. The objective in this case was to obtain details, not numbers, to tap the experiences of the individual miner (afflicted in some degree) as he tried various alternatives in his pursuit of his claim. This is the operation of the Act as it looked to one class of mine workers for whom it was designed, namely, the health-impaired miners.

In order to win the confidence and the cooperation of the miners it was considered necessary to obtain the services of a local person for interviewing, one thoroughly familiar with the mining industry and the community. Since the interview, while guided, was to be unstructured, a tape recorder was provided so as to permit the widest latitude for exchange of information. The interviewer's function was to keep the conversation on the track--to what agency did the miner go; what was the result; what did he do next; what benefits has he obtained? The summaries of the interviews, presented in Appendix C, represent only those highlights which are of direct interest in this study.

Certain general conclusions can be drawn from the case studies as a group. One which is obvious to anyone who reads through the cases is that few of the miners have a good understanding of the Act and how it operates. These miners were quite well aware of the passage of the Act. A considerable number of men reported that they filed for Social Security (black lung) benefits in January 1970, which is when the Act went into effect. But from then on their experiences differed.

Mr. A (Case Study 1) was an older, long-service miner who had worked for the passage of the Act. He was one of the first applicants and he received his black lung benefits approximately seven months later. At his age (63) and with his length of service (41 years), his claim was undoubtedly a good one. Furthermore, he had previously had a long battle over State workmen's compensation. His success in dealing with the system is evidenced by the fact that he currently receives his monthly black lung check, his regular Social Security Old Age Benefits check, and a $150 pension from the UMWA Welfare Fund.

Mr. E (Case Study 5) had a very different experience. He is now 43 years old with 26 years of experience (entered the mines at age 17). An excerpt from his testimony speaks for itself.

> Following the advice of his physician, Mr. E stopped working one year ago. The dust was so bad in the mines that visibility was reduced to five feet. Mr. E noticed his condition when he had to get off his coal ladder and work on the floor of the mine. His condition worsened to the point that his fellow workers had to assist him in his duties. Prior to quitting, Mr. E requested an outside position away from the dust. His foreman and superintendent refused him an outside job, contending there was nothing wrong with him. Mr. E is familiar with the opt-out rule under the black lung law, but states that it is not enforced. Workers holding outside jobs have seniority and are protected by union contracts. Mr. E did not go to the union because he did not have enough seniority to get an outside position. At the time Mr. E applied for black lung benefits he was still working. Since then he has been denied benefits and is in the process of appealing the case. At the time of the initial application he was informed that he would have to apply for State workmen's compensation, but for some undetermined reason, he has just recently filed for compensation.

Here is a man who quit his job on the advice of his private physician. When he applied for black lung benefits he was still working. Now his claim has been denied. The denial may be due in part to his failure to follow the right procedures.

Mr. F (Case Study 6) is another younger man with much the same experience--applied for black lung benefits in July 1970 when he was working; stopped working in November 1970 on advice of his physician; has since been denied black lung benefits twice and disability benefits twice; his family now on welfare. He has been awarded a 15 percent disability for workmen's compensation but refuses to accept what he regards as wholly inadequate. This man has not found his way through the system very successfully.

Mr. K (Case Study 11) is a good example of a miner who does not understand the system. He has the impression that the State Bureau of Vocational Rehabilitation makes the decision on black lung benefits. Either Mr. K or the local Social Security representative is mistaken about the relationship between black lung and regular Social Security disability benefits--a miner can get both, although there were offsets in the amounts, prior to the passage of the Black Lung Benefits Act (as reported in Case Study 12).

Awards

Basically, the attitude of the miners is one of dissatisfaction with the way the benefit systems are now being operated. First, the miners feel that the length of time it takes to process a case is entirely too long. They think that six months is ample time for adjudication of claims. However, many of those miners complaining about the amount of time it takes to process claims have been denied benefits at least once. Consequently, the amount of time to process such a case would be longer than those granted benefits upon their initial application. One exception to this is found in Case Study 3: "In January, 1970, Mr. C applied for black lung benefits. As of yet, his claim has not been approved. He said that Social Security has never requested that he have a breathing test or additional X-rays." Since then, Mr. C has received a letter from Social Security telling him that his black lung claim was being reviewed following the regulations set forth under the new 1972 law.

The time element was also mentioned by the miners in connection with the State Workmen's Compensation Fund. However, two major reasons contribute to the delay. First, the claim may be contested by the employer, which then requires a hearing. In Case Study 4, Mr. D's claim for compensation was contested by his former employer because the employer did not approve of the testing center where Mr. D received his examination. Mr. D was examined in Beckley, West Virginia by Dr. Rasmussen, who administers the blood-gas test. The coal operator believed that the test administered there was biased in favor of the miner; therefore, he questioned the results.

Second, the miner may refuse the award and appeal the case on the ground that he deserved more money for his disability. "Mr. F stopped working in November 1970 on the recommendation of his physician. He was granted a 15 percent disability from Workmen's Compensation, but refused it twice, because he is convinced that he deserves a full disability compensation from the State. He is awaiting a hearing on his claim for compensation benefits."

In Case Study 12 Mr. L had two dissatisfactions: his claim had been contested by his employer, and he was unhappy with the award he received. At the time Mr. L applied for benefits he was still working. With the aid of a union lawyer he was able to win a 10 percent disability award made by State Workmen's Compensation. Mr. L felt that he deserved a larger grant but he was afraid he would be discharged by his employer if he were to ask for more.

Lawyers

Many miners think that it should not be necessary to retain lawyers in order to get benefits. In certain instances lawyers seem to be necessary to obtain such benefits as workmen's compensation, since the claimant may want to appeal his case, or his claim may be contested. In such cases a hearing is required and a miner, ignorant of the laws, will most certainly need a lawyer to protect his interest.

Some miners (Mr. G) are of the opinion that it is necessary to hire lawyers to counteract the operator who may contest the claim. On the other hand, there are those who think it is a disgrace that one has to hire a lawyer to get benefits that are rightfully his to begin with (Mr. I). All those using lawyers to insure their benefits regarded the fees charged for representation to be too high. (In most cases the fee charged was 25 percent of the back payment.)

In one case (Mr. J) a lawyer was retained to help expedite his claim for black lung benefits. His claim for benefits had been denied twice by Social Security on the ground of insufficient evidence proving his disability. Mr. J states that, although he knows all claims will automatically be reviewed under the 1972 law, he will still have to pay his lawyer, if the claim is approved without the lawyer's assistance. (This may or may not be true; the lawyer may waive any charges if the miner's claim is automatically approved under the new law.)

Normally, under Social Security, a worker files a claim for benefits and he receives his payments. Unless for some reason he must request an appeal, the worker has no need of a lawyer. But, in Workmen's Compensation, where payments are made in lump sums, there is a widespread practice of hiring lawyers to prosecute the claim. Due to the delays and denials of black lung claims, this practice of retaining lawyers appears to be shifting to the black lung claimants.

Medical Examinations

While the delay in benefits and the hiring of lawyers were popular areas of discussion for those interviewed, the subject of medical examinations was by far the most widely discussed topic. The majority of the miners had been to several doctors for examinations. The procedures of applying for benefits and being examined for black lung have been outlined in Chapter 1. When a miner is denied benefits he receives a letter informing him of his right to appeal and obtain additional evidence of his disability. In seeking this new evidence, those miners interviewed went to doctors and hospitals other than the ones to

which they were initially sent by Social Security. The most frequently mentioned examining station used by the miners when gathering evidence for appeals was in Beckley, West Virginia. There they receive a blood-gas test administered by Dr. Rasmussen.

As a result of these interviews, it is clear that the miners become confused over what they consider to be contradictions in the results obtained by several doctors they visited. More specifically, one doctor would tell the individual that he had black lung, but was not afflicted enough to collect an award. Another doctor would tell the miner that he is severely disabled, that he should stop working in the mines and file for benefits. Normally, those physicians who tell the miner that he should file for benefits are doctors that the individual seeks out on his own.

Many of the miners interviewed expressed dissatisfaction with the present testing procedures sponsored by Social Security. (Case Studies illustrating this point are 2, 4, 5, 6, 7, 9 and 11.) In Case Study 11, Mr. K was told that he did not qualify for black lung benefits, and has been turned down twice. However:

> Mr. K has been told by four different doctors that he has pneumoconiosis. One doctor became so disturbed, when he found that Mr. K was not receiving benefits for his condition, that he wrote a letter to the local Social Security office on Mr. K's behalf. Mr. K said he drove to one hospital and was told he had 95 percent usage of his breathing. The same day he drove to another testing center and was told he had only 62.7 percent usage of his breathing. The test that indicated 95 percent usage was referred to by Mr. K as the "crackerbox breathing test."

Case Study 6 also points out the dissatisfaction with Social Security sponsored testing centers, as opposed to testing centers of the miner's own choice:

> Mr. F contends that the examination administered at a local Appalachian regional hospital recommended by Social Security is unfair...Mr. F was told by the hospital that black lung appeared in his X-rays, but not in the breathing test. In an effort to acquire his own test, Mr. F went to the Appalachian regional hospital in Beckley, West Virginia for a blood-gas test. There Mr. F was informed that he had an 85 percent disability. Mr. F believes that the examination administered at Beckley was fair and thorough.

Although Social Security recognizes the blood-gas test administered in Beckley, they feel that the simple breathing test is also a good indicator of pulmonary dysfunction. One of the major reasons why the miners are confused over what appears to be contradictions in testing for black lung is that they are unaware of the implications of instituting such a method as blood-gas testing. However, the fact remains that, in the opinion of the miners, the blood-gas test is a superior testing procedure for detecting the degree of black lung in a miner.

Job Rights

A further topic that aroused some discussion concerned the miner's right, under the FCMHSA, to transfer to a less dusty job, if his X-ray shows evidence of pneumoconiosis. The respondents in four Case Studies (5, 7, 9, 12) said that no outside jobs exist. Two of the respondents quit the mines before the passage of the law, and two of the respondents were in the mines after the miner had the right to opt-out.

Mr. E and Mr. G believed that no outside jobs were available because of the operation of the seniority system. Either the jobs on the outside are already filled or the workers who get outside jobs must have seniority in an underground position.

Summary

In summary, the miners interviewed are very skeptical of the agencies that they come in contact with when applying for black lung benefits, workmen's compensation benefits, and Social Security disability. The attitude of most miners is that if they ever hope to get their benefits, they must be prepared to fight for them. They maintain a defensive stance against Social Security and other government agencies. As illustrated in the miners' confusion over medical examinations, they are unaware of the underlying mechanics of the various agencies with which they come in contact. There appears to be a need, not only for better understanding of the miners by the agencies, but also better understanding of the agencies by the miners.

Chapter 5

DESIGN FOR SERVICES

This report demonstrates that the coal miner in the course of his working life has occasion to call upon the services of half a dozen major agencies of government as well as upon the services of community agencies, both public and private. The Employment Service is one of those major agencies, but it is only one among many. Furthermore, its basic services of job-finding for the unemployed and the payment of unemployment benefits are becoming of decreasing importance to the coal miners. Since 1968, when the industry turned the tide of 20 years of declining employment, unemployment among the coal miners has been low, jobs have been plentiful, and benefit payments have been relatively small.

Other factors within the coal industry have weakened the influence of the Employment Service as a service agency to miners. The UMWA and the Bituminout Coal Operators' Association (BCOA) have a collective bargaining agreement which provides that currently employed miners have a preference in filling job vacancies on the basis of seniority. Furthermore, local panels of labor and management members in the coal areas function as placement agencies for filling jobs. The 1969 and 1972 black lung legislation brought new responsibilities to agencies concerned with health and safety, but not to the Employment Service.

Nevertheless, there is a gap which needs to be filled, and which the Employment Service is uniquely qualified to provide, namely, a guidance and counseling service which could assist the miners in making the decisions for which they are now responsible, as well as offering training and placement services which could provide access to a wider labor market for those miners electing to seek jobs elsewhere. The major function of the Employment Service is to provide informed access to the nation's labor market for any worker who desires such access.

The problem is how to design a system of services sufficiently comprehensive and flexible to match the needs of the situation faced by the miner. To be useful a design must provide services for which there would be a demand by at least some classes of miners, and to do that it must offer equalizing opportunities for each of the major decisions which the miner must make.

We have set forth in previous chapters the economic benefits which accrue to the miner from the new legislation of the last few years, as well as

from the major collective agreement which covers about three-fourths of the production workers in the industry. Other collective agreements cover some of the remaining one-fourth, while there are some non-union mines in which the collective benefits are not applicable. There may be a greater need for outside services among non-union miners, although they too may have many advantages in staying within the industry.

The design must include elements which deal with each of the major decisions which a coal miner is called upon to make when he discovers that he has a black lung problem. Under Federal administration of the black lung program, the middle-aged miners who have a touch of black lung, but who are not disabled fall into one category. The other is the more seriously afflicted older miner whose risks, motivations and opportunities fall into a completely different category. Each of these miners is faced with a set of choices in which he is responsible for the decisions. Moreover, the choices are nowhere near equally weighted; in fact, some of them are almost compelling, while others are of negligible value to the miner. Yet, despite all the national, State and local agencies which have some responsibilities, assigned or volunteered, to provide services, there is no central direction with coordinates all their activities in the service of the miner making the decisions which govern his health problem.

Middle-Aged Miners

To demonstrate this lack of organization we take a miner from the first group and put him through the decision-making processes.

He is a miner who has been notified that he has a touch of the disease. He is a Category I case with more than 10 years in underground mines. If he is currently employed, he is not eligible to request a transfer to a clean air job. His basic choice is between quitting his job and leaving the industry, or continuing to work in the hope that the disease will not progress. As this exercise will show, the dice are heavily loaded in favor of his staying with the job.

However, some time later (too short for any change in his health condition) he is laid off in a general shutdown of the mine. This will bring him immediately to the local employment office, where he will register for work and for unemployment benefits. He then has available to him the services which the employment security program can provide.

1. Unemployment benefits

The weekly payments vary from state to state, but for coal miners they tend to be up near or at the maximum because wages in coal are high. In some states he is entitled to additional benefits for dependent children. The duration is usually 26 weeks, although in at least one state (Pennsylvania) it is 30 weeks. At certain times and under certain conditions he might be eligible for extended benefits up to a total of 39 weeks. Unemployment insurance provides substantial support while he tries to find a job.

2. Counseling

His unemployment opens up the possibility for him to consider shifting to another industry. The Employment Service may have job openings in a number of local establishments and it has access to the nationwide labor markets. However in all likelihood the local employment office will consider him to be a miner and will refer him only to mining jobs, unless he happens to have some non-mining skill.

But he could open up additional job prospects by indicating an interest in getting out of mining, and he could get the benefit of the counseling services which the local office can provide. The barrier to effective counseling is the secrecy which the miner maintains with respect to his health. As was clearly brought out by the responses of the miners in the survey, the individual miner does not want to admit to anyone that he has black lung. He fears that, if the fact becomes known, employers will not hire him. If he is a union man, he may have received advice from his union not to let his condition be known.

If it could be established to the miner's satisfaction that the employment counselor can and will preserve a confidence in the same way that a physician does, then he could turn to the Employment Service for guidance on the whole range of information that he needs for an intelligent decision in a matter of vital importance for himself and his family. But that is not the situation at present.

For the Employment Service to perform any kind of a service in that situation, two conditions would be necessary. First, some official in the local office would have to be assigned responsibility for establishing and maintaining complete confidentiality concerning the miner's black lung condition; and second, the Service would have to win the confidence of the miners by good local office performance in achieving confidentiality of records and of information. Given those conditions the Employment Service could become the agency with which the coal miners would discuss their labor market decisions.

3. Training

Assume that this miner is really intent on getting out of coal and indicates his availability for other jobs. There are some prospects of non-mining jobs opening up later, but his mining experience does not qualify him for them. Could he take training?

In principle the answer is "yes", provided that he qualifies. Under the Employment Security Amendments of 1970, which took effect January 1, 1972, a worker drawing unemployment benefits can undertake a training course provided (a) that the Employment Service finds the training to be reasonably related to his career prospects and (b) that the course is given by a legitimate training agency. Once launched on such a training course, he has the right to carry it on to completion, regardless of job offers or recalls. The training would be at his own expense, except insofar as he could get scholarships or training grants.

Working against him on the training opportunity would be the risks that he would run. While he could hope for a job when he finished the course, he would have no definite assurance of a job. Without one he would have exhausted his benefit rights and would have to continue job-seeking at his own expense, unless he could possibly qualify for welfare.

But that would not be all. If the miner is a member of the UMWA, and therefore a participant in the Welfare and Retirement Fund, an exploration with the Union and the Fund would be necessary to make sure that the taking of the training would not deprive the miner of his membership in the Fund. Furthermore, an unemployed miner has one year of grace during which his right to medical care for himself and his family is preserved. After one year his participation in the Welfare and Retirement Fund is ended until he again qualifies by coal mine employment. So, while the miner is taking his training course, time is running against him; when it is over, he is only six months away from a serious loss of medical benefits (which he can remedy by taking a job anywhere in the mines).

The only remedy for this situation would be for the miner to take only those training courses which lead directly to a job. In private industry this would be the type of work which he would be willing to accept as a career.

4. Medical Care

The prospect of a job in another industry brings the miner up against the problem of medical care for himself and his family. His new employer may not have any health plan at all. He loses an extremely valuable fringe benefit

without any substitution. But the new employer may have a health plan for the employees, although it would scarcely be as comprehensive as the Welfare Fund plan in bituminous coal. Furthermore, many plans provide that the worker must be in the company's employment for a year before he is eligible to join the plan. Since he would lose his Welfare Fund protection as soon as he took the new job, there would be a hiatus of a year, during which he and his family would have no protection against sickness.

There is little that the Employment Service can do about this situation other than exploring for the facts and giving the worker the information. The miner would surely know a good deal about the Welfare Fund, to which he has belonged for at least some years. But he might need help to explore the approximate dimensions of the prospective employer's medical program.

This gap dramatizes the need for better coordination of health services to workers and their families. There ought to be some way to provide for the transition of workers from one plan to another without such heavy losses and potential dangers. For example, if the Welfare Fund would carry the miner and his family for one year (as they now do while he is out of work for that length of time), then the family would be protected in the transition. Another alternative would be to provide that health plans become effective as soon as the worker goes on the payroll of the employing firm. A third method would be to work out some system of transferring health benefit rights from one private health plan to another. Finally, it might be provided that a miner afflicted with, but not yet disabled by, black lung would be eligible for Medicare in lieu of his rights under the Welfare Fund. All these alternatives would require additional legislation.

5. Pension

Any miner who has been 10 years in the mines is halfway toward qualifying for a pension (that is, on the criterion of length of service). At 35 years of age he might easily have worked for 10 years or more. The Welfare Fund table on the age and work experience of active miners (Appendix D) shows that among some 9,600 miners in the age group 35-39, a substantial majority (5,500) had 10 years or more of work experience--1,900 (10-14 years), 2,700 (15-19 years) and nearly 900 (20 years or more). Even among the 30-34 age group there were about 2,400 with 10 years or more--1,800 (10-14 years) and nearly 600 (15 years or more). With respect to pensions alone, these experienced miners have a strong incentive to stay with the industry, or to go back to it, if they do have to drop out temporarily.

However, from another point of view, a miner at age 35 is 20 years

away from the pensionable age of 55 years. If he has less than 5 years of experience (and about one-fourth (nearly 2,500) of the 35-39 group were in that category), his pension incentive could be relatively weak. He might be inclined to seek a pleasanter job elsewhere and let the pension go.

While the Fund pays benefits at an early age, it has no vesting of partial rights for shorter service; the miner must acquire 20 years of service and he must reach age 55 (with coal mine employment in that year). Therefore, any miner of middle age with substantial length of service in the industry has a strong incentive to stay with the industry.

It is the young miners, those in their early 20's and early 30's who would be more likely candidates for other jobs. These are beginning to constitute a substantial proportion of active miners. In Table D-1 (Appendix D) the figures show that at the beginning of 1971 almost one-fourth (26,073) of all the miners in the Welfare Fund had had less than 5 years of work experience and of those nearly two-thirds (16,594) were under 30 years of age, more than a quarter of a century away from the pension.

Other statistics, however, show that these young workers are not itching to leave the industry. Statistics issued by the BCOA show that 29 percent of the mine work force at the beginning of 1971 were recruits brought into the industry in the five-year period, 1966-70. It is obvious that some of the new entries during that five-year period must have departed before the end. But since coal mine employment as a whole was increasing during the later years of the period, layoffs by employers would have been low--the majority of leavers were voluntary quits with comparatively short service in the industry.

But assume that the 10-year miner in his thirties does strongly desire to move out of the industry. How could he get some compensation for his loss of pension rights under the Welfare Fund?

One solution for this is a provision for partial and early vesting. Private plans differ widely in this respect. Some provide for limited pension rights (vesting) after 15 years of service, 10 years, 5 years, or even less. The Senate Sub-Committee on Labor has been working on legislation which would require earlier vesting for plans to be approved by the Treasury Department. With early vesting (in this case 10 years) the miner would have some pension rights in the Fund even if he should take a job in another industry.

It is necessary to point out here that this is not a simple matter; otherwise there would already have been legislation adopted. Early vesting can be costly in the level of benefits payable upon retirement. Plans without vesting can

pay high monthly benefits to the limited numbers of workers who eventually qualify. When partial benefits are made payable to those who leave the plan before the retirement age, the additional costs have to be met either by a reduction in final benefit payments or by higher contributions. The earlier the vesting, the greater will be the effect.

The problem in bituminous coal is that the Welfare Fund already has a relatively short period of qualifying service (20 years) and an early retirement age (55 years). Its financial position is further complicated by an extremely high ratio of retired beneficiaries in relation to the active miners. Finally, the Fund is derived from a royalty pament of 65 cents a ton, rising to 80 cents during the present collective agreement. So early vesting would be very costly in the current condition of the Welfare Fund.

6. Wages

At the end of the line we finally come down to the "nitty-gritty"--what is the pay? For the past third of a century coal mining has been one of the highest-wage industries in the U.S. This partly due to unionization and collective bargaining, but it is also due to the risks of the job and the unpleasantness of the work. Under the present collective agreement daily wages will advance to a minimum of $42.25 and a maximum of $50.00. On a weekly basis the average earnings in bituminous coal mining in September 1972 was $216.77. On a year-round basis that would amount to over $11,000 a year; and the higher-wage miners would be making more than that. Furthermore, employment in the industry is increasing, so that most miners are assured of steady year-round work.

Where could a miner find a job which pays anywhere near what he is already earning? Contract construction is the only major industrial group which pays substantially higher wages, but that industry is highly seasonal and fluctuating, so that on an annual earnings basis, it would yield no higher income. Some other industries (basic steel, automobiles, petroleum, chemicals and transportation) barely match the coal earnings.

So the miner who is intent on leaving the industry has to consider the loss of earnings which he is likely to experience in choosing to shift to a job in another industry. Any miner who is at all sensitive to his earning capacity and his annual income will not be a candidate for lower-wage, lower-income jobs. After due consideration, the miner will elect to stick it out with coal.

Summary

The bituminous coal mining industry, highly isolated from the rest of the industrial economy, has developed its own labor protective devices, all of which have tended toward continued future isolation.

The coal miner early in his career acquires rights and protections which tie him closely to the industry. Any miner with sufficient length of service to be a black lung case would find few incentives to leave the industry and many hurdles to be overcome. In brief,

(1) his wages are likely to be lower

(2) his pension will be jeopardized

(3) his medical care will be lost temporarily (and perhaps permanently)

(4) he may be risking job insecurity in his new firm and industry

The conclusion is that nearly all such active employed miners will continue to decide (as they have decided to date) to stay with the coal industry until they can qualify for black lung benefits, other disability benefits and a pension, plus (eventually) Social Security retirement.

Older Miners

The second group of miners designated above are those who are afflicted with black lung (or some other lung disease) to a degree which classifies them as totally disabled for mine work. Such miners may continue to work in the mines regardless of their disability. However, the overwhelming majority of these have applied for permanent disability under the Social Security Black Lung Program. Most of these had been long retired from the industry but there were substantial numbers of miners, currently or recently active, who chose the black lung benefits instead of opting for a transfer to another job within the mine.

While a great many of such ex-miners are wholly disabled for work, there are considerable numbers who can be classified as totally disabled for work in the mines, but who feel well enough to work in other jobs. Under the law such workers can take part-time or even full-time jobs in other industries while continuing to receive black lung benefits. Literally thousands of such miners within the ages of their fifties or early sixties would be fully able to take such jobs and

holding them indefinitely.

However, these ex-miners may need training to adapt their skills to the new industries in which they will be working. This may turn out to be an important field of activity for the Employment Service, namely, providing training of a type which would restore many thousands of ex-miners to active participation in the labor force.

New Coal Manpower

For a period of about 20 years ending in 1968 bituminous coal mine employment declined sharply and steadily, year by year. The existing work force closed ranks and new recruits for the industry were few in number.

However, manpower trends were suddenly reversed; coal employment began expanding. Several forces produced that change. The first was the expansion of coal output to meet the nation's energy needs. A larger output required more workers. A second factor was the Coal Mine Health and Safety legislation which affected coal manpower from two directions. The safety standards sharply increased the labor required to keep down the dust in the underground mines, while other safety requirements also added to the mine work force. In the other direction the operation of the black lung legislation provided miners with the opportunity to retire from the industry in large numbers, as noted above.

The net result of all these forces is to expand the mine work force while simultaneously increasing the rate of retirement from the industry. The outcome is a need for new entrants into the mine work force sufficient (a) to offset the retirements and (b) to provide the manpower required for industry growth.

Leo Kramer, Inc. has made several projections of the future manpower needs of the bituminous coal industry for the eight-year period, 1973-80, based on certain assumed conditions. In one model the results indicate new manpower requirements of 12,000-15,000 men per year, with a total for the whole period of over 100,000 new entrants. In another model showing an actual decline of the work force by 11,000 men to 1980 the new entrants ranged from 9,500 per year down to 7,000--a total of nearly 60,000.

In summary, the Employment Service has three training opportunities in the coal industry: (1) health-impaired middle-aged miners who may want to leave the coal industry; (2) older retired miners who plan to continue their work careers in industries other than mining; and (3) new recruits required to meet the manpower needs of the industry.

Chapter 6

SUMMARY AND CONCLUSIONS

This review of the operation of the Black Lung legislation and its administration demonstrates clearly that, while some objectives have been largely achieved, others have had unexpected consequences. The outcome as a whole is somewhat different than was originally anticipated.

1. One primary and basic objective of the original 1969 Act was the achievement of clean air in all underground mining, so that pneumoconiosis would cease to be an occupational disease. According to the reports issued by the Bureau of Mines more than 93 percent of the mines have been certified as clear, and the Federal inspectors are continuing their drive for 100 percent compliance with the standard for clean air. Furthermore, this standard was raised as of January 1973 to a new low level of dust concentration (a) for the air at the working face of the mine and (b) for the air into which the miner has the option to transfer, if he wishes.

Ideally the new standards should be sufficient to insure that after some years no new cases would be developed. The young workers entering the mines now could be reasonably assured that in the course of a working career in the mines they would not acquire black lung.

However, in actual practice the required periodic lung examinations may continue to turn up additional cases for some years to come. First of all, higher concentrations of dust can occur in certain areas of the mine or, between inspections, in the mine as a whole. These deviations should not be sufficient to cause black lung in the young miners entering the industry now.

However, there are undoubtedly among the middle-aged miners a considerable number who have some dust accumulations in the lungs already, and who could with further exposure develop a definite case of black lung. So it is likely that for the next five years or so, a moderate number of new cases will be discovered. Agencies administering the black lung legislation will continue to find work to do.

2. The second objective of the legislation was to provide active miners afflicted with a touch of black lung with the opportunity to transfer from their current jobs to those with cleaner air. It was expected that such an "escape"

feature would permit thousands of miners to continue their careers in the mines without risking complete disability.

Our study shows that this feature of the act has turned out to be of minor importance. While several thousand working miners have been declared eligible to transfer, only about 650 elected to do so. This outlet has not been a major factor in the black lung problem nor in the manpower situation in the coal industry.

There are several cogent reasons for the inactivity of those miners for whom this feature of the legislation was especially designed, namely, those not yet wholly disabled, but who have some degree of black lung. One powerful reason is the penchant for secrecy by the afflicted miners. Part of this attitude may be personal and psychological--what man wants to admit to anyone but his doctor that he has a health problem?

That attitude is buttressed by a genuine economic risk--if his health problem becomes widely known, how can he hold his job or find another one? This concern of the miner about his health condition becoming known to the industry has been a factor in limiting the X-ray program for active miners. After more than two years of X-raying, a total of less than 75,000 miners have been credited with having their X-rays taken through both the regular program and the research project. Since production workers in bituminous coal number about 125,000, there remain some 50,000 missing.

There are several possibilities of accounting for these.

(a) Some miners may have gone to their own physicians, most likely with the objective of applying for black lung benefits. However, if they were given a clean bill of health, the X-ray would likely remain in the doctor's office with no record of its being taken.

(b) There are many thousands of miners who have avoided having their X-rays taken. A substantial minority of the miners have a negative attitude toward the X-ray program. Our field survey of the miners brought out this point strongly. Some of these are middle-aged miners with considerable length of service who fear that their degree of affliction, if any, will become known and jeopardize their jobs.

(c) Another group of unknown dimensions are the younger miners who think that they do not have the necessary 10 or 15 years of service which would entitle them to job transfers or benefits. Why bother with X-rays?

(d) Finally, the 1969 Act referred only to underground mines. The 1972 Act brought strip mines in, and the X-ray program will now include them. However, only small numbers of strip miners have been X-rayed thus far. Their absence could account for perhaps 20,000 of the missing miners.

Still another reason for restraint on the part of the miner is that his request for a transfer to a cleaner job may put him into competition with his fellow miners. In the union agreement with management it is provided that a job opening in the mine must be posted for bidding by interested miners, and among those qualified, seniority controls. Even if the operator created a new job in order to honor a request for transfer (under the law he must act within 45 days) he might still have some difficulties over worker rights. From a legal point of view, the provisions of the law should take precedence over the clauses in a collective agreement, but a union miner might hesitate to break an established custom and upset a fellow union member. The union's policy is to drive for full compliance with the standards, so that transfers would not be necessary; all miners would be working in clean air. However, it is recognized that this will take time.

3. The third objective of the legislation was to provide disability benefits to miners totally disabled by black lung, either in the past or currently on the job, in addition to the widows and orphans of miners who suffered from black lung prior to their deaths. These constituted the backlog which had developed over the years when pneumoconiosis had not been recognized as an occupational disease.

This is the outlet which has expanded far beyond the original concept. As was anticipated and specifically intended, the widows and orphans plus the longtime disabled older ex-miners all applied for benefits. These people comprised the unemployable backlog for whom the special black lung retirement benefits were clearly designed. The record shows that great numbers of such men and women succeeded in qualifying for benefits. What was entirely new and unexpected was the extent to which active miners--employed, unemployed or recently retired--presented their applications for retirement from the industry on black lung benefits. As of October 30, 1972 the number of miners on the rolls reached a total of 88,100. These were the survivors from the accumulated total of 104,200 miner awards which had been made since the beginning of the program.

It has not been possible to determine how many of these men were active miners when they decided to apply for benefits, so we do not know how much the current work force in coal was reduced by these retirements. The

age distribution of the black lung beneficiaries would indicate that considerable numbers of them must have been working within the last few years.

Then came another development which had dramatic consequences. Despite the thousands who received black lung benefits, there were other thousands who were denied. Of course, many of these were men in good health with no problem. But some had ailments of various kinds, although their X-rays showed no signs of black lung. These latter denials raised such a storm of protest that Congress passed the 1972 Act which changed the rules. Any miner with 15 years of experience in mining (underground or above ground) was made eligible for benefits, if he had any kind of a disabling lung disease. As a result of that law the Social Security Administration is re-reading the X-rays of those whose applications had been denied, and awarding benefits to those who qualify under the new definition. The latest published figures show that 23,800 of such cases have already been awarded benefits. More will be added as the X-ray reading proceeds; and beyond that, some individuals, denied benefits a second time on their original X-rays, will develop new presentations.

Prior to the passage of black lung legislation many thousands of such miners (afflicted, partially disabled or even fully disabled) continued as active members of the coal industry labor force, seeking and holding jobs whenever they could get them. Miners at least partially disabled by black lung, sometimes drawing workmen's compensation, could and did work in the mines. But under the new legislation, these health-impaired miners are almost universally pressing their claims for retirement with black lung benefits.

So the third objective of the legislation is being fully achieved. When the present Federal program is ended on January 1, 1974 the accumulated backlog of miners disabled by black lung plus other lung diseases (together with the widows and orphans) will have been provided with lifetime black lung benefits administered by the Social Security Administration with Federal funds.

4. Over and beyond the three original objectives of the legislation several important by-products have been developed.

a. One relates to the definition of disability. Under workmen's compensation a partially disabled worker may continue to draw benefits while holding a part-time, or perhaps even a full-time job. However, if he is totally disabled, then he cannot hold down a job without having his benefits reduced or taken away entirely.

Under the black lung legislation the miner is rated as totally disabled for coal mining; he cannot work in the mines and

continue to draw black lung benefits. But he can work in other industries and can keep all his earnings (subject, of course, to Federal, State and local taxes) in addition to his full benefits. It is not likely that the combined benefits and earnings would equal the income he could make from the high wages in coal mining, but the differential might not be very great. Additional advantages are (1) that the benefits are not taxable as income and (2) that they are guaranteed for life, without any risk to the miner of being declared rehabilitated for coal mine employment. Of course, if he feels well enough, he can always return to mining, but only with the loss of his black lung benefits.

b. The black lung legislation produced another significant by-product. Simple pneumoconiosis, as determined by X-rays, comes from one specific cause--coal dust in the lungs. Since that dust is acquired only through extended exposure in underground mines, pneumoconiosis is unmistakably an occupational disease--it comes from coal mining and from nowhere else.

But when other lung diseases are included, the connection with mining is not so clear. Asthma, pleurisy, tuberculosis or emphysema could all be complications of black lung, but they can also arise from other causes than exposure to coal dust in the mines. The result is that the distinction between occupational disability and general disability is blurred. A worker could get emphysema from excessive smoking; he might indeed be totally disabled for work, but his disability might not be occupational. For the Federal administration of the black lung program this issue is settled by the 1972 Act. But if and when this program is returned to the States and to workmen's compensation regulations, there may be a problem in the definition of occupational disability.

Furthermore, under the Occupational Safety and Health Act administered by the Department of Labor this same problem will surely arise in a number of industries, especially those with conditions similar to mining, namely, risks of serious disabling diseases associated with the work, but not exclusively attributable to it. This is sure to be one of the issues in future health insurance and medical care legislation.

c. A third by-product of some importance is the combination of benefits available to miners qualifying for black lung benefits. With respect to workmen's compensation the old rule holds--full offset. Thus, if a disabled miner is drawing $100 per month benefits under workmen's compensation in Pennsylvania, he can (with a wife and two children) receive $239.50 a month additional from the Social Security Black Lung program.

However, there are other benefits which the disabled miner might also receive. One is general disability benefits, to which he is entitled under the regular Social Security program. A worker receiving a permanent disability benefit because of an automobile accident could draw payment for that in addition to black lung. Furthermore, if he is qualified for a miner's pension from the Welfare and Retirement Fund, he can draw that as well. Finally, when he reaches retirement age under Social Security Old Age Benefits, he can add that to his retirement income.

In summary, a miner qualifying for black lung benefits might be able to cumulate two or three other benefits as well, thus achieving a retirement income high enough to come within range of his potential earnings at full-time work. In that situation a health-impaired miner would have very little incentive to seek another job. It is possible that miners fully retired under Social Security would find it profitable to train for jobs yielding the part-time, part-year earnings that are permitted to workers between the ages of 65 and 72, and, of course, the full earnings permitted at age 72 or over.

5. Where does the nation go from here? Under the present legislation the Federal support of this black lung program comes to an end in 1973. After that the Federal financial responsibility is confined to carrying the accumulated beneficiaries. The cost up to the autumn of 1972 amounted to about $1 billion derived from general revenue. The total cost to 1980 has been estimated at about $8 billion.

However, beginning in 1974 all new cases of black lung will be the responsibility of the bituminous coal industry under State workmen's compensation laws. The latter are subject to standards established by the Department of Labor under the Occupational Safety and Health Act of 1970. This involves a monumental turnover in government responsibilities. The U. S. Department of Labor is now at work planning for that transition.

In one respect the financial problem for the coal industry has been greatly reduced by the Federal government's absorption of the benefits created by

the backlog. Under the new standards the incidence of black lung and other lung disease should be far smaller than the current financial burden. On the other hand, the costs of complying with the new safety standards are already being met by the coal industry, and the future benefits will be an additional cost. On top of these will be the costs associated with new pollution standards which will have to be met in coal mining. The outlook for the future is for rising costs of coal production and rising prices.

The organizational interrelationships of the Federal, State and local agencies administering the black lung program furnishes a preview of the problems which will arise in the administration of the OSHA legislation applicable to American industry generally. In black lung the Department of Labor has been only slightly involved. In the broader program the Department will have greater responsibilities. The Employment Service, for example, will have a much larger part to play in the counseling, training and placement of workers affected by occupational diseases and other disabling injuries. This report has shown the areas where more and better services could be performed if the Employment Service had the responsibility and the resources.

The operational experience in the black lung program has highlighted the stabilizing, but also the immobilizing, effect of fringe benefits on an industry's labor force. This study has shown the strong attachment which the individual coal miner has to the industry, once he has established some stake in it. The effect is to reduce substantially the adaptability and flexibility of the nation's labor force in the middle-aged groups. Labor turnover and transferability are being concentrated in the younger, short-term employees who have not acquired many rights, and in the older retired who may be able to combine their benefits with employment in another industry.

Recommendations

The legislative issues and the administrative problems of the agencies involved in the black lung problem constitute forerunners of the problems that will arise in the administration of the Occupational Safety and Health Act of 1970. The organizational and administrative problems which have arisen in the bituminous coal industry will re-appear in other industries having similar safety problems and similar types of occupational diseases. This report should provide some leads to the Department of Labor in planning for operations on a much larger scale. To assist the Department in its emerging program LKI is making a series of recommendations.

1. Workers in many other industries will encounter the same types of problems as the miners have in bituminous coal--disablement, transferability, training, pension rights, medical care and other personal problems.

LKI recommends that the Department of Labor in cooperation with the Rehabilitation Service of HEW experiment in some significant coal mine area with counseling, training and placement services which could be performed by the Employment Service in assisting the miners who are faced with decisions as to remaining at work, choosing retirement, volunteering for retraining or seeking jobs in other industries.

2. As emphasized at several points in this report, there is now being created in the black lung benefits program a substantial reserve of many thousands of ex-miners who are totally disabled for work in the mines, but who are not disabled for work in other industries.

LKI recommends that a study be made by the Department of Labor of the work potential of these prematurely retired miners, looking toward the development of a program to find suitable jobs for those who wish to return to the active labor force.

3. In bituminous coal, as in many other industries, the private pension system provides retirement security for workers who are able to stay with the industry or the firm until retirement age. At the same time, however, the system can operate to limit the opportunities of a worker to shift to another industry or firm.

LKI recommends that the Department of Labor make a further study of this problem with a view to developing and supporting legislation which would provide some pension rights for workers who find it desirable or necessary to change jobs.

4. The miners in bituminous coal have one of the most comprehensive medical care systems in American industry. Such systems are being established in many industries and firms. However, the degrees of coverage and of benefits vary widely. Furthermore, a worker attempting to make a shift from one industry to another may encounter a time gap which would deprive him of coverage temporarily.

LKI recommends that the Department of Labor inaugurate a study of medical care systems from the point of view of providing linkages or transfers which would facilitate the mobility of workers in the labor markets. This is vitally important, since health protection is a matter of deep concern to workers of all ages, and especially to younger workers with families.

5. The bituminous coal industry during the past few years has shifted from an industry of declining employment to one of substantial expansion. The transition has been further magnified by the accelerated retirement of older workers from the industry. The prospect is for the entry of 10,000 to 15,000 new workers each year during the remainder of the 1970's. Accident records from many industries over the years have shown that accident rates rise when substantial numbers of new young workers enter an industry. In high-accident industries this situation makes a case for the special training of such workers, not only with respect to safety but also for job skills and work practices in mines.

LKI recommends that the Department of Labor explore the opportunities for participation, through the counseling, training and placement services of the Employment Service, in the recruitment of these new young workers.

Appendix A

COAL MINE SURVEY STATISTICAL TABLES

COAL MINE SURVEY STATISTICAL TABLES

Table A-1
State of Birth of Miners

State	Number	Percent
West Virginia	74	36.3
Kentucky	45	22.1
Illinois	39	19.1
Pennsylvania	35	17.2
Other States	8	4.0
No Response	3	1.5
Total	204	100.0*

Table A-2
Marital Status of Miners

Status	Number	Percent
Single	8	3.9
Married	178	87.3
Divorced (or separated)	12	5.9
Widowed	6	2.9
Total	204	100.0

* Throughout these tables an Asterisk (*) will note that percentages do not equal 100.0 due to rounding.

Table A-3
Home Ownership, by Age of Miner

Response	Total	Age of Miner 19-24	25-34	35-44	45-54	55-64	65 +
Own	142	6	28	40	47	18	3
Rent	62	18	14	7	14	6	3
Total	204	24	42	47	61	24	6

Table A-4
Employment Status of Miners

Status	Number	Percent
Employed	178	87.3
Not Employed	26	12.7
Total	204	100.0

Table A-5
Status of Miners Not Employed

Status	Number
Unemployed and looking for work	-
Unemployed and not looking for work	2
Retired	6
Permanently disabled	15
Temporarily disabled	2
No response	1
Total	26

Table A-6
Nature of Disability

Response	Number
Black lung (if volunteered)	8
Accident	1
Other	8
Total	17

Table A-7
Type of Mining in Which Employed

Type	Number	Percent
Handloading	4	2.0
Conventional	82	40.2
Continuous	105	51.5
Conventional and Continuous	12	5.9
No Response	1	0.5
Total	204	100.0*

Table A-8
What Type of Jobs Other Than Mining Have You Had?
(Last Five Years)

Type	Number
Service	22
Manufacturing	12
Farm	4
Other	12
None in last 5 years	50
Total	100

Table A-9
Proportion of Time in Other Jobs (Last Five Years)

Proportion	Number	Percent
None	156	76.5
Less than 1/2 time	20	9.8
Between 1/2 and 2/3 time	16	7.8
More than 2/3 time	10	5.0
No response	2	1.0
Total	204	100.0*

Table A-10
If You Have Not Had an X-ray for Black Lung, Why Not?

Response	Number
Did not have the time or chance.	19
Afraid they will get back to the company.	13
Told not to by the union	8
Other	25
Total	65

Table A-11
Do You Think There are Better Tests to Find Black Lung Than the X-ray?

Response	Number	Percent
Yes	170	83.3
No	13	6.4
Don't know	19	9.3
No response	2	1.0
Total	204	100.0

Table A-12
Dust Problems in Mines

Response	Roof Bolter?		Motorman?		Machine Operator?		Beltman?		Tipple?	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Yes	57	27.9	53	26.0	174	85.3	6	2.9	3	1.5
No	145	71.1	149	73.0	28	13.7	196	96.1	199	97.5
No Response	2	1.0	2	1.0	2	1.0	2	1.0	2	1.0
Total	204	100.0	204	100.0	204	100.0	204	100.0	204	100.0

Table A-13
Best Method of Keeping Dust Level Down

Response	More Rock Dusting		Respirator		Water Spray		Ventilation		Other	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Yes	50	24.5	14	6.9	192	94.1	27	13.2	10	4.9
No	153	75.0	189	92.6	11	5.4	176	86.3	193	94.6
No Response	1	0.5	1	0.5	1	0.5	1	0.5	1	0.5
Total	204	100.0	204	100.0	204	100.0	204	100.0	204	100.0

Table A-14
Can Miner Stay in Mining and Away From Dust?

Response	Number	Percent
Yes	29	14.2
No	173	84.8
No response	2	1.0
Total	204	100.0

Table A-15
Has Dust Problem Improved Since Federal Act?

Response	Number	Percent
Yes	154	75.5
No	42	20.6
No Response	1	0.5
Don't Know	7	3.4
Total	204	100.0

Table A-16
Does the Miner Have a Choice of Jobs Outside of Mining If He Must Leave?

Response	Number	Percent
Yes	13	6.4
No	150	73.5
Don't Know	41	20.1
Total	204	100.0

Table A-17
Do You Know Anyone That Tried to Get a Transfer?

Response	Number	Percent
Yes	50	24.5
No	154	75.5
Total	204	100.0

Table A-18
If Yes, Was He Successful?

Response	Number
Yes	10
No	38
Don't Know	2
Total	50

Table A-19
Have You Ever Drawn Unemployment Benefits?, by Age of Miner

		Age of Miner					
Response	Total	19-24	25-34	35-44	45-54	55-64	65 +
Yes	135	12	22	29	46	21	5
No	69	12	20	18	15	3	1
Total	204	24	42	47	61	24	6

166 miners or 81% of the total sample responded that the nearest State Employment office was located within 25 miles or less of home. Thus, travel would present little difficulty.

Table A-20
Has the State Employment Office Referred You to Any Jobs?

Response	Number	Percent
Yes	21	10.3
No	183	89.7
Total	204	100.0

Table A-21
If Yes, Did You Accept These Offers?

Response	Number
Yes	14
No	7
Total	21

A negligible number of miners indicated that they ran out of benefits before finding work.

Table A-22
Was Workmen's Compensation Fair and Impartial?

Response	Number
Yes	25
No	56
Total	81

Table A-23
Problems With Workman's Compensation

Response	Number
Money (payments too slow)	9
Time (too slow)	9
Underestimate disability	20
No response	43
Total	81

Table A-24
How Did You Know About Workman's Compensation?

Response	Number
Company	14
Others	19
Doctor	11
No Response	37
Total	81

Table A-25
Did You Get Any Help From Vocational Rehabilitation?

Response	Number	Percent
Yes	2	1.0
No	202	99.0
Total	204	100.0

One miner received articifial limbs and the other did not note the type of assistance rendered; however, each indicated that the services were helpful. One miner was referred to Vocational Rehabilitation by his company; the other by another agency.

Table A-26
If You Did Not Get Any Help From Vocational Rehabilitation
Do You Know Anyone Who Did?

Response	Number	Percent
Yes	9	4.4
No	195	95.6
Total	204	100.0

The types of services received included butcher and electrician training and welding school.

Table A-27
Where is the Vocational Rehabilitation Service Located?

Response	Number	Percent
25 miles or less from home	90	44.1
26 miles or more from home	37	18.1
Don't know	16	7.8
Haven't one in the area	12	5.9
No response	49	24.1
Total	204	100.0

Table A-28
Do You Know of Any Government Job Training
Program in Your Area?

Response	Number	Percent
Yes	42	20.6
No	162	79.4
Total	204	100.0

Table A-29
If Yes, What Kind?

Response	Number
Mine related	21
Non-mine related	14
No response	7
Total	42

Table A-30
How Did You Find Out About the Training Program?

Response	Number
Friend	11
Relative	4
Media	19
Referral from another agency	2
No response	6
Total	42

Table A-31
Would You Take A Training Program If It Were Available?

Response	Number	Percent
Yes	99	48.5
No	105	52.5
Total	204	100.0

Table A-32
Have You Or Anyone Else Had Anything To Do With Social Security?

Response	Number	Percent
Yes, self	37	18.1
Yes, others	73	35.3
No	95	46.6
Total	204	100.0

Table A-33
If "Yes, Others", Who?

Response	Number
Friends	8
Relatives	58
Both	7
Total	73

Table A-34
Was Social Security Cooperative?

Response	Number
Yes	54
No	48
No response	8
Total	110

Table A-35
If Yes, Specify for What

Response	Number
Retirement	21
Compensation (disability)	42
Death benefits	2
No response	45
Total	110

Seven miners indicated that Social Security referred them to another agency.

Table A-36
Race of Respondent

Race	Number	Percent
Black	9	4.4
Non-Black	187	91.7
No response	8	3.9
Total	204	100.0

Table A-37
Where Would You Look for Another Job If Laid Off Tomorrow?

Response	Number	Percent
Other Mines	153	75.0
State Employment Office	23	11.3
Check with buddies	4	2.0
Other	24	11.8
Total	204	100.0*

Table A-38
In the Last Five Years Have You Left Town Looking for Work?

Response	Number	Percent
Yes	23	11.3
No	181	88.8
Total	204	100.0*

Table A-39
If You Left Town Looking for Work, Where Did You Go?

Response	Number
Large city	14
Medium size city	3
Rural town	6
Total	23

Table A-40
Did You Find Work?

Response	Number
Yes	17
No	6
Total	23

Table A-41
If Yes, What Kind?

Response	Number
Factory	10
Service	1
Unskilled labor	1
Skilled labor	6
No response	5
Total	23

Table A-42
Why Did You Come Back?

Response	Number
Got homesick	5
Didn't like where I was	6
Other	12
Total	23

Table A-43
Do You Agree That Miners Work Harder Than Workers In Other Occupations?

Response	Number	Percent
Yes	172	84.3
No	32	15.7
Total	204	100.0

Table A-44
Do You Agree That Miners Work Harder Than Workers In Other Occupations?, by Age of Miner

Response	Total	Age of Miner					
		19-24	25-34	35-44	45-54	55-64	65 +
Yes	172	21	34	39	50	23	5
No	32	3	8	8	11	1	1
Total	204	24	42	47	61	24	6

All but one of the respondents agreed that miners are not overpaid. Approximately 90% of the miners or 183 of the total sample earn above $3,600.

Table A-45
Do You Agree that Once a Miner Always a Miner?

Response	Number	Percent
Yes	153	75.0
No	51	25.0
Total	204	100.0

Table A-46
Do You Agree that Once a Miner Always a Miner?, by Age of Miner

Response	Total	Age of Miner					
		19-24	25-34	35-44	45-54	55-64	65 +
Yes	153	14	23	38	50	23	5
No	51	10	19	9	11	1	1
Total	204	24	42	47	61	24	6

Table A-47
Do You Agree That Mining Has Gotten Better Over the Last Few Years?

Response	Number	Percent
Yes	148	72.5
No	42	20.6
No response	14	6.9
Total	204	100.0

On the other hand, only 26 miners or 13 percent of the total sample felt they would be proud if their sons entered into the mining industry.

Table A-48
Do You Agree That Some People Say That a Miner Who Had Black Lung Cannot Do His Share of the Work in the Section?

Response	Number	Percent
Yes	119	58.3
No	79	38.7
No response	6	3.0
Total	204	100.0

Table A-49

1. Should the government do more for the miner?

   196 miners or approximately 96% agreed.

2. Are mines more dangerous than most people think?

   192 miners or approximately 94% agreed.

3. Do companies not like to transfer men when they have lung problems?

   138 miners or approximately 68% agreed.

4. Do miners have the worst job in the United States?

   144 miners or approximately 71% agreed.

5. Are the people in Washington really concerned with the miner?

   Only 23 miners or approximately 11% agreed.

6. Are most coal companies concerned with keeping dust levels in the mines low?

   Only 70 miners or approximately 34% agreed.

Appendix B

SURVEY INSTRUMENT

SURVEY INSTRUMENT

Area of Survey_____
State_____
Interviewer_____

COAL MINE SURVEY

We are asking your help in answering the following questions. You have been selected to participate in this study because of your experience as a miner. You are one of 300 miners who is participating. All information will be kept confidential. We ask that you answer the questions so that your views will be heard. This information will help us make suggestions to aid all miners and other working people to have safer and healthier working conditions. This information will be used for research purposes only.

I. First I would like some background information.

1. How old are you? _____ years.

2. Where were you born?_____ _____ _____
(City) (County) (State)

3. What is the highest grade you ever completed in school?_____

4. Are you single, married, divorced, or widowed? Circle one:

(1) Single (2) Married
(3) Divorced (or separated) (4) Widowed

5. How many dependents do you have living at home? _____

6. Are you presently employed? Yes_____ No _____

If no, are you:

(1) Unemployed and looking for work.
(2) Unemployed and not looking for work.
(3) Retired.
(4) Permanently disabled.
(5) Temporarily disabled. Nature of disability_____

7. Do you own or rent your home (apartment)? Circle one:

(1) Own (2) Rent

Do you own a car? Yes _____ No _____

II. Now some questions about your present (or last) employment.

8. How many years have you worked in mining? _____ years.

9. How many years have you worked with your present (last) mine? _____ years.

10. Is your present mine union or non-union? Circle one:

(1) Union (2) Non-union

11. What type of mine is it? Circle one:

(1) Hand loading (2) Conventional (3) Continous

12. What size is the seam?

(1) High seam (49" or over)
(2) Low seam (48" or under)

13. What type of job do you perform in the mines?

(1) Face work.
(2) Transportation (at face).
(3) Transportation (away from face).
(4) Outside work.
(5) Other _____

14. Have you ever done any other type of work (other than mining)?

Yes _____ No _____

If yes, what type? (list)

_____ From_____ To_____ Years____

_____ From_____ To_____ Years____

_____ From_____ To_____ Years____

15. Do you expect to work in mining until you retire?

Yes _____ No _____

How long do you expect to stay in mining? _____ years.

If you had a chance to leave the mines (at the same wage) would you?

Yes _____ No _____

III. Now some questions about coal dust in the mines. The Federal Coal Mine Health and Safety Act of 1969 had a lot to say about dust levels in the mines.

16. How much of a problem is dust in the mines in which you have worked?

(1) Major (2) Somewhat (3) Minor

(4) Not a problem

17. Are some jobs dustier than others?

Yes _____ No _____

If yes, which ones?

(1) Root bolter.
(2) Motorman.
(3) Machine operator.
(4) Other (specify) _____

18. What do you think is the best method of keeping dust levels down? Circle one:

(1) More rock dusting.
(2) Respirators.
(3) Better spraying (water).
(4) Other (specify) _____

19. Can a miner stay in mining and get away from the dust?

Yes _____ No _____

If yes, how? _____

_____

If no, why not? _____

_____

20. Has the dust problem in your area been improved in the last couple of years?

Yes _____ No _____

If yes, why, in your opinion?

(1) Men work safer.
(2) Company more cautious.
(3) Union more cautious.
(4) More (better) inspections.
(5) Improved technology.
(6) Other (specify) _____

21. If a miner needs to get away from the dust because of his health does he have any choices in your area other than coal mining?

Yes _____ No _____ Don't know _____

If so, what? _____

_____

_____

22. What is the most serious problem facing miners today?

(1) Dust
(2) Roof falls
(3) Machine
(4) Other (specify) _____
(5) Other (specify) _____

IV. Now some questions about Black Lung.

23. All miners are suppose to have an x-ray made of their lungs to check for Black Lung. Have you participated in this program?

_____Yes, I had an x-ray taken by the company.
_____Yes, I had an x-ray taken by my doctor.
_____No, I have not had one taken.

If no, why not? _____

If yes, do you think x-rays are a good test for Black Lung?

Yes _____ No _____

Have you talked to your doctor about the x-ray?

Yes _____ No _____

24. Do you think there are better tests to find Black Lung than the x-ray?

Yes _____ No _____

If no, what do you think would be a better test?

(1) Breathing test.
(2) Blood-Gas test.
(3) Miner's word.
(4) Doctor's word.
(5) Other (specify) _____

25. Have you or anybody you know had any dealings with the state compensation board? Workman's Compensation?

_____Yes, self _____No

_____Yes, others specify who _____
(friends, relatives, etc.)

If yes, do you feel they were fair and impartial?

Yes _____ No _____

Identify any problems you have had with them. _____

_____

_____

If you have had dealings with the state compensation board, how did you know how to go to them?

_____

_____

26. Did you get any help from Vocational Rehabilitation?

Yes _____ No _____

If yes, what kind? _____

Was it helpful? Yes _____ No _____

How did you find out to go there? _____

_____

If you did not, do you know anyone who did?

Yes _____ No _____

What kind of help did they give him? _____

_____

Where is the Vocational Rehabilitation service located in miles from your home?

_____ miles.

27. Have you or anybody you know had any dealings with Social Security?

_____Yes, self

_____Yes, others (specify friends, relatives, etc.) _____

_____No

If yes, do you feel that they were cooperative? _____

If yes, specify for what _____

_____

Did they refer you to another agency?

Yes _____ No _____ Specify _____

28. A miner in Virginia is told by the company that he must take an x-ray. A few weeks later he gets a notice in the mail saying that under the law he has the right to ask his company to transfer him to a job where there is hardly any dust. What do you think he should do? Circle one:

(1) Be quiet, do not tell anybody about this letter.
(2) Tell his buddies about it and ask their advice first.
(3) Go to the union and ask them for help.
(4) Go to the company and demand a job on the outside.
(5) Quit the mine and get another job.
(6) Go to the Black Lung Association.
(7) Go to the Social Security Office and apply for Black Lung benefits.
(8) Other (specify) _____

29. Do you know anyone that tried to get a transfer?

Yes _____ No _____

If yes, was he successful?

Yes _____ No _____

30. A miner has been working in a union mine for about 18 years. Lately his chest has been hurting and he has had difficulty breathing. His wife wants him to get a chest x-ray. His buddy tells him not to because the mine foreman will find out and if it is bad he will get fired and lose his pension. What should the miner do?

(1) Get the x-ray.
(2) Not get the x-ray.
(3) Refuse to answer.
(4) Don't know.

31. What services has the union provided you in regard to Black Lung testing?

_____

_____

V. Now some questions about manpower services.

32. If you were layed off tomorrow, where would you go to look for a job? Circle one:

(1) Other mines.
(2) State Employment Office.
(3) Check with buddies.
(4) Other (specify) _____

33. Do you know of any government job training program in your area?

Yes _____ No _____

If yes, what? _____

_____

Have you had any help from any of them?

Yes _____ No _____

If yes, what kind? _____

_____

How did you find out about the training program?

(1) Friend
(2) Relative
(3) Union
(4) Media
(5) Referral from another agency (specify) _____

34. Would you take a training program if it were available?

Yes _____ No _____

If yes, what job would you want to train for? _____

35. Have you been out of work within the last five years?

Yes _____ No _____

36. Have you ever drawn Unemployment benefits?

Yes _____ No _____

37. Where is the nearest State Employment Office in miles from your home?

_____ miles.

38. Has the State Employment Office referred you to any jobs?

Yes _____ No _____

If yes, did you get any offers?

Yes _____ No _____

If yes, did you accept these offers?

Yes _____ No _____

If no, why not?

(1) Pay too low.
(2) Job too far away.
(3) Other (specify) _____

Did you run out of benefits before you found work?

Yes _____ No _____

39. Did you get any help from other agencies? Circle one:

(1) Welfare
(2) Food stamps
(3) Other _____

(4) Other _____

40. What manpower services has the union provided you with? _____

_____

_____

41. In the last five years have you left town looking for work?

Yes _____ No _____

If yes, where did you go?

(1) Large city (2) Medium size city
(3) Rural town (4) Farm

Did you find work?

Yes _____ No _____

If so, what kind? _____

Why did you come back? _____

_____

42. In your opinion, do you think the employment office does a good job in finding work for unemployed people?

Yes _____ No _____ Don't know _____

Probe for comment: _____

_____

_____

_____

43. How would you rate your health? Circle one:

(1) Excellent (2) Good
(3) Fair (4) Poor

VI. Finally, please say if you agree or not with the following statements.

____ 1. Miners work harder than workers in other occupations.

____ 2. The government should do more for the miner.

____ 3. Once a miner, always a miner.

____ 4. The mines are more dangerous than most people think.

____ 5. Companies don't like to transfer men outside when they have lung problems.

____ 6. Miners' wives are normally the bosses of the family.

____ 7. Miners have the worst job in the United States.

____ 8. The people in Washington are really concerned with the miner.

____ 9. Mining has gotten better over the last few years.

____10. A miner would be very proud if his son went to work in the mines.

____11. Most coal companies are concerned with keeping dust levels in the mines low.

____12. Miners are pretty stupid; they let others step all over them.

____13. Some people say that a miner who has black lung cannot do his share of the work in the section.

____14. Miners are overpaid.

Interviewer Questions--To be answered by you after you complete the interview.

1. Race of interviewee _____

2. Ethnic background of interviewee _____

3. Size of mine where he works: approx. tonnage _____

   no. of employees _____

4. In your opinion is his income above $3,600 a year? _____

   below $3,600 a year? _____

Appendix C

INDIVIDUAL CASE STUDIES OF DISABLED MINERS

CASE STUDY 1

Mr. A is a 63 year old former West Virginia miner who has had 41 years of experience in the mines. His jobs were primarily at the face and he has done motor and track work also. The majority of his career was spent at one mine.

Presently receiving black lung payments, Mr. A filed a claim at the beginning of the program, January 1970, and received his benefits approximately seven months later. Before signing up for the black lung program, however, he had spent time in Charleston at Black Lung Association meetings urging the passage of the FCMHSA of 1969. Mr. A had also filed for State workmen's compensation for silicosis and his medical examinations had revealed 15 percent loss of function. After appearing before the Board, Mr. A was awarded a lump sum of $1500 for his impairment.

When his company discovered he had been examined and had filed for State workmen's compensation, Mr. A was laid off from his job. He states that the very next week he received a compensation check in the mail, but refused to accept it because he was determined to fight the injustice he felt had been done to him. Mr. A noted that the union contract states that, if a worker can prove he was laid off without just cause, he will be reinstated and paid for every day's work lost.

Mr. A stated that the "Olga Agreement" between the coal mine operators and the union stated that a man would be laid off once it was learned he had applied for compensation for silicosis. Although this agreement no longer exists, Mr. A felt at that time that the companies should arrange to pay workers more compensation than they did when miners were laid off. He claims to know some men who have received State compensation for silicosis and who are still working.

In hopes of regaining his job at the mine, Mr. A went to the Superintendent's office to file a grievance. He pointed out to the official that a review of his work record would show that he did his job well. Mr. A added that the company had to hire two men to replace him at his former job!

Next, he was permitted to read the "Olga Agreement", which Mr. A described as "dirty work, not law." However, he failed to request a copy of this statement. Later, when he realized he should have a record of this information, he returned to the office but was unable to get a copy.

His next step was to take his case to the umpire, who ruled against him because of the "Olga Agreement." Finally, Mr. A carried this matter to the Labor Relations Board in Cincinnati, Ohio. He stated that the Board kept his file for three to four weeks. Then he was notified that he was allowed one week to furnish new evidence of his being unjustly discharged from his job. Mr. A could not get a ruling in his favor. He feels that the operators had influenced the final decision of the Board.

After these unsuccessful attempts to be reinstated, there was no use in looking for another job with a different coal company. Two factors were against him--his age and his disability. Mr. A said that once a man files for silicosis compensation, he is, in essence, signing a waiver. No companies will hire a marked man.

Mr. A then filed for Federal black lung benefits. He did not have any X-rays taken by Social Security, because he knew that Social Security had access to his State workmen's compensation records which contained the medical history gathered when he filed for silicosis. Also, his family doctor had medical files to which Social Security could refer. Social Security, at one point during the processing of his claim, had sent a letter requesting he report for a breathing test. The breathing test, he said, was a "delaying tactic" by Social Security to postpone the awarding of benefits. Therefore, he did not go for that test, or any others, since he believed that the medical evidence already available was sufficient.

Several times Mr. A went to the Social Security office to check on the status of his black lung claim and to review his claims file. Only recently have claimants had no trouble seeing their files, according to Mr. A. Also, he believes that black lung claimants should have the right to see people with authority at the local Social Security office. About seven months after he had filed his claim, Mr. A received a notice that his black lung benefits had been awarded.

In addition to his monthly black lung check, Mr. A receives his $150 a month pension from the UMWA Fund, and regular Social Security disability payments. He commented that it took three months to get the pension and the usual six to eight months for the disability claim to be processed and paid.

Mr. A says that the law is only as good as the enforcers, and he hopes the new Black Lung Benefits Act of 1972 will help other deserving miners and widows to receive benefits.

CASE STUDY 2

Mr. B, age 53, has had 28 years of service in the mines. He has held a variety of jobs in the maintenance area, which included moving equipment and laying track. Most of his years were spent with one coal company. Except for four years as a captain in the Air Force during World War II, Mr. B has no work experience other than mining. He is married and has three dependent children.

In January of 1968 Mr. B filed for State workmen's compensation for silicosis in West Virginia. He was declared to have 50 percent impairment at that time. His claim was not honored until July, 1970, when he was awarded $3,760. Since Mr. B felt he deserved higher compensation, he appealed the case twice, but did not win. He added that the UMWA lawyer representing him had refused to re-open the case again, although the time limit on filing appeals had not expired.*

Prior to receiving compensation for silicosis through the State, Mr. B was forced to leave his job to be hospitalized in January, 1970. His physician diagnosed his condition as "Pneumoconiosis with other complications" and advised against his returning to work. Since his release from the hospital in February of 1970, Mr. B has reported regularly every two months to the same doctor to have an examination and to receive medication. He has not worked since that time, and states that he could not work if he wanted to, because he "doesn't have the wind" to do the job.

In March, 1970, Mr. B applied for black lung benefits and Social Security disability payments simultaneously. He also filed for his Veteran's pension and was sent to the VA hospital in Huntington for an examination. He states that he had no problem at all getting his pension of $150 a month. In addition to this pension, Mr. B receives public assistance of $24 a month and food stamps.

Mr. B already has had his black lung and Social Security disability claims refused one time. He has asked for reconsideration and says that both claims are still pending.

When asked about the process for gathering medical data for his black lung claim, Mr. B related that he had had a number of X-rays and breathing tests. He said that he was not reimbursed by Social Security for any examinations by private physicians.

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* It is possible that the lawyer believed that he had insufficient evidence to win the case.

First, Mr. B had an X-ray, from the front only, and a breathing test at Appalachian Regional Hospital. Also, he had a breathing test administered by another doctor who gives examinations for Social Security. Mr. B felt that this test was totally ineffective and added that the miners have little faith in this particular doctor. When he reported for the test, he had to wait over two hours in an air-conditioned waiting room before being examined. Mr. B believes that breathing tests should be conducted following exertion rather than relaxation. He said that the other breathing test he received, while on a treadmill, was a better indicator of respiratory ailments. The results of this latter test showed Mr. B to have 60 percent impairment.

Another private physician took X-rays from four or five different angles, and a doctor in Kentucky diagnosed his condition as "silicosis in the second stage." These reports also were submitted as medical evidence in Mr. B's black lung file.

Mr. B said that a Vocational Rehabilitation counselor had been to his home. After realizing that Mr. B was unable to work, the counselor had said he would "close the books" on his case.

In April, 1971, Mr. B conferred with a representative at the local Social Security office and requested that (1) his claims folder be forwarded from Baltimore for his review, and (2) his black lung and Social Security disability claims be filed separately. Apparently, it is normal procedure for Social Security to maintain one master file on both claims. Mr. B thinks that he is surely entitled to Social Security disability, if not black lung, and says that the independent processing of the claims would expedite his receipt of benefits. Mr. B wrote to a Senator from West Virginia requesting that he investigate the matter, and the Senator responded he would do so. However, Social Security has continued to file the two claims as one.

In April, 1972, one year after his request, his claims file arrived in the Social Security office. At this time, Mr. B requested that the local office add to his file the report of his VA medical examination and the information from the West Virginia Department of Welfare.

When asked his reaction to the Black Lung Benefits Act of 1972, Mr. B responded that this new law, if properly administered, will enable more claimants to receive benefits. Mr. B stated that he had testified before the Senate subcommittee in December, 1971, prior to the passage of the law. When the law was enacted in May, 1972, his Congressman had sent him a copy. Also, he has received a letter from Social Security advising him that his claim is being reviewed in light of the new amendments to Title IV of the FCMHSA.

CASE STUDY 3

Mr. C is 49 years old. Before he left work several years ago, he had been in the mines for approximately 18 years. He spent most of his career working for one company and his jobs were at the face, where it is quite dusty. There are eight dependents in the home, and one son is attending college.

A few years ago Mr. C had two X-rays taken--one at a hospital and another by a compensation doctor for his company--and was told his lungs were clear. By the time a young physician in Charleston determined that Mr. C had respiratory defects and advised that he file for State workmen's compensation for silicosis, the period for filing such a claim had expired.

In January, 1970, Mr. C applied for black lung benefits. As of yet, his claim has not been approved. He said that Social Security has never requested that he have a breathing test or additional X-rays. Shortly after the passage of the Black Lung Benefits Act, Mr. C received a letter from Social Security advising him that a hearing was being arranged for his case. Mr. C was surprised to learn this since he had not been notified previously that his claim had been denied! About the same time he got another letter from Social Security telling him that his black lung claim was being reviewed following the enactment of the new law and that he would have ample time to supply new information.

Six months ago Mr. C had had further examinations by a well-known physician that showed a 65-70 percent loss of function. When his Congressman recently urged him to submit to Social Security all new medical evidence in support of his claim, Mr. C supplied the results of this latest test. He had scheduled appointments with two more doctors, but decided against going. He believes that, under the new law, his black lung disability can be determined by the evidence already available. Mr. C has not submitted any bills to Social Security for reimbursement on his medical expenses because he felt it would be futile--he knows of no one who has been reimbursed.

Mr. C's income consists of his VA pension of $45 a month, regular Social Security disability benefits, and food stamps. Since he no longer has health coverage from the UMWA Fund, he is forced to pay $50 a month for insurance for his wife and children. Because of his health, Mr. C can not get coverage for himself.

Mr. C said that he waited three years for his regular Social Security disability benefits. During this period he could not get even the most menial employment because of his poor health. He said that doctors considered him too

disabled to work, but Social Security did not judge him to be disabled enough to get disability payments. Finally, Mr. C went to the local Social Security office in hopes of receiving some word on the status of his claim. A young man at the office took interest in the case and arranged a hearing in Charleston. The examiner questioned Mr. C and his wife briefly, reviewed the medical reports, and granted his Social Security disability benefits immediately. The amount of back payments received was used to pay off the many debts incurred over the past few years, including almost $2,000 in grocery bills. Mr. C feels that Social Security should make every effort to process claims more quickly, so that claimants will not find themselves as financially strapped as he was. He is still awaiting a decision on his black lung claim.

Mr. C is an active community worker. Not only was he a member of the Disaster Committee for the Buffalo Creek tragedy, but also he attempts to assist his neighbors who seek benefits. Mr. C is dissatisfied with Social Security's decisions on some cases and has appeared at hearings for two widows who have appealed their black lung claims. Also, he cited another case involving two recently orphaned children. When the mother died, the father cared for the children for four years until his death. Although the father, who worked 41 years in the mines, was unable to prove his disability under the FCMHSA, Mr. C hopes the new, more liberal Black Lung Benefits Act will grant benefits to the orphans based on their father's death that was due to pneumoconiosis. The children are receiving regular Social Security disability payments now.

Mr. C knows a 20 year old young man with eight months in the mines who has been X-rayed under the program provided by his employer. This miner had evidence of pneumoconiosis, requested a transfer, and was given a job in a low-dust area.

Mr. C thinks the new law passed in May of 1972 will be enforced properly and will provide help for many more workers and dependents, especially those previously denied. He hopes that discrimination by operators against miners with evidence of the disease will be stopped. Mr. C told of a friend who operated a cutting machine. His X-ray showed indications of the disease, but he did not qualify for benefits. The employer learned of the miner's condition and laid him off. Mr. C says the Black Lung Benefits Act should correct the inequities in the administration of the X-ray and the benefit programs. He, of course, hopes to be granted black lung benefits under the new law.

CASE STUDY 4

Mr. D is a 54 year old former West Virginia miner with 31 active years in the mines. He ran a loading machine for a few years, but most of his working career was spent as a motorman. The coal dust, coupled with sand dust arising from beneath the wheels and tracks of the motor, created extremely hazardous air to work in. Mr. D says that the respirators the miners are required to wear are inadequate, because they do not catch the fine particles of dust.

Mr. D became aware of his disability when he was required to get off the motor and do brake work, which entails walking. He found it almost impossible to breathe, so he went to his physician, who advised him to stop working. Mr. D then applied for black lung benefits and was asked to go to a mobile clinic for an examination. He received correspondence informing him that his lungs were all right. Next, Mr. D was sent to an Appalachian Regional Hospital where he was administered a "cracker-box breathing test." Mr. D thinks that the examinations sponsored by Social Security are inadequate for determining black lung.

So Mr. D went to Dr. Rasmussen, a well known local physician in Beckley, West Virginia. There he received a blood-gas study test which determines how well the blood oxidizes air from the lungs. While the patient is being examined he is required to exercise on a stable walking machine. Mr. D was very satisfied with the test he received in Beckley and considers it to be the only effective way of testing for black lung. He thinks there is a need for similar labs to be set up in all coal fields. He believes that most other miners would agree with him on this point.

Mr. D applied for black lung benefits in January, 1970 and received his first payment in October, 1971. When he received his first black lung check his Social Security disability ($300) was reduced to $148. Each time a raise was granted for black lung benefits it was deducted dollar for dollar from his Social Security disability. (Mr. D gave no indication that he was familiar with the recent change brought about by the passage of the Black Lung Benefits Act, which eliminates the reduction of Social Security disability payments to a miner eligible for both types of benefits).

When Mr. D quit work he applied for Social Security disability due to his lung condition. He received his first Social Security disability payment seven months after application, at which time he applied for State workmen's compensation. Mr. D feels that the resistance of his former employer resulted in the delay of payments for compensation benefits. Consequently, Mr. D received a 30 percent grant two years after application for benefits.

Mr. D expressed some misgivings about the genuine concern of Social Security and workmen's compensation for the coal miner. He believes that Social Security and workmen's compensation are against the physician in Beckley because those tests were more likely to indicate black lung.

Mr. D cited some improvements that should be made in the making and enforcement of black lung laws. He favors better clinics, fairer doctors, and improved testing procedures, as well as modification of regulations covering qualification for payment, which he considers too strict. He thinks the lawmakers should visit and actually talk to miners in the mines. The people in Baltimore "don't even know what color coal is." The lawmakers should know more about the conditions of the coal miner. Also, he considers six months to be ample time to process a case.

Mr. D is of the opinion that in many cases, widows have difficulty getting benefits. Hospitals destroy records of patients who have been dead over five years; consequently, widows must rely on affidavits for proof of their husband's disability. These affidavits and sworn statements of neighbors are not given enough consideration by Social Security and workmen's compensation officials. Furthermore, when a miner dies in a mine of a pulmonary dysfunction, Mr. D says that the owner may attempt to falsify the death certificate, so that he will not be required to pay benefits to the widow.

CASE STUDY 5

Mr. E is a 43 year old former West Virginia miner with over 26 years of experience in the mines. He held various jobs at the face of the mine under very dusty conditions. At present, Mr. E is not working and does not receive any benefits, although he has made application for State workmen's compensation and Social Security disability. Mr. E has two children in school and his wife to support. He receives $200 monthly, in addition to food stamps, as subsistence from the local welfare agency.

Following the advice of his physician Mr. E stopped working one year ago. The dust was so bad in the mines that visibility was reduced to five feet. Mr. E noticed his condition when he had to get off his coal loader and work on the floor of the mine. His condition worsened to the point that his fellow workers had to assist him in his duties.

Prior to quitting, Mr. E requested an outside position away from the dust. His foreman and superintendent refused him an outside job, contending there was nothing wrong with him. Mr. E is familiar with the opt-out rule under the black lung law, but states that it is not enforced. Workers holding outside jobs have seniority and are protected by union contracts. Mr. E did not go to the union, because he did not have enough seniority to get an outside position. At the time Mr. E appl[illegible] for black lung he was still working. Since then he has been denied benefits [illegible]nd is in the process of appealing the case. At the time of the initial application he was informed that he would have to apply for State workmen's compensation, but for some undetermined reason he has just recently filed for compensation.

Mr. E was sent to a local Appalachian Regional hospital for an examination by Social Security when he applied for black lung and Social Security disability benefits in January, 1970. Mr. E referred to the test received there as a "crackerbox breathing test"... In an effort to acquire medical results from a physician of his own choice, Mr. E went to Beckley but was never reimbursed for travel expenses. Since then he has been informed by the Black Lung Association that such expenses are to be reimbursed by Social Security. Mr. E feels the "crackerbox" test is an inadequate means of determining black lung. He feels a man should be exercised while he is being tested.

When asked what could be done to improve black lung laws Mr. E replied that the time it takes to process a case is unreasonable. Also, the Social Security representatives do not know enough about the coal miner. If they would go in the mines for a couple of shifts they would be more sensitive toward the coal miner's needs. Mr. E feels Social Security is not doing enough to help the miner.

CASE STUDY 6

Mr. F is a 41 year old former West Virginia coal miner with almost 20 years of experience in the mines. Most of his time was spent as a shuttle car operator and his work at the face of the mine was under extremely dusty conditions. Mr. F applied for State workmen's compensation and Federal black lung benefits in July, 1970.

Mr. F stopped working in November, 1970 on the recommendation of his physician. Since then Mr. F has been denied black lung benefits twice and Social Security Disability twice. He was granted a 15 percent disability from Workmen's Compensation, but refused it twice, because he is convinced that he deserves a full disability compensation from the State. He is now awaiting a hearing on his claim for compensation benefits.

Mr. F has five family members, including himself, to support. Since he stopped working in November, 1970, the family has subsisted on welfare. He receives $240 per month, including food stamps. Before he stopped working, Mr. F's salary was $700 per month.

Mr. F contends that the examination administered at a local Appalachian Regional hospital recommended by Social Security is unfair. He refers to the breathing test as the "crackerbox" test. Mr. F was told by the hospital that the Black Lung appeared in his X-rays but not in the breathing test. In an effort to acquire his own test, Mr. F went to the Appalachian Regional Hospital in Beckley, West Virginia for a gas-blood study. There Mr. F was informed that he had an 85 percent disability. Mr. F believes that the examination administered at Beckley was fair and thorough.

Mr. F states that he has not experienced good cooperation from Social Security representatives. At first he was refused access to his records at the local Social Security office. When he did get permission to see them, they were incomplete. Mr. F claims that the doctor's statement from Beckley should have been in the files, but was not present when he inspected the files. Mr. F said that he has never been informed of procedures for applying for black lung benefits by anyone at the local Social Security offices. All his information has come from the Black Lung Association. (The Black Lung Association is an independent organization to inform miners of their rights under the law. This organization was also a lobby group for the black lung legislation.)

Mr. F thinks that the program for black lung could be improved. First, the Social Security representatives should visit and spend some time in the mines

so that they would be more considerate of the miner's plight. Second, the test for black lung should be administered while the individual is exercising, such as the one administered in Beckley. Third, Mr. F believes that the miners should have some say in the rules and regulations governing the black lung program, as well as a voice in the decision-making.

CASE STUDY 7

Mr. G is a 53 year old former West Virginia miner with 25 years of experience in the mines. Mr. G was an electrician and trouble shooter at the face of the mines before retiring due to disability in 1965.

Mr. G stopped working in 1965 after experiencing four years of bad health due to nerves and diabetes. He spent some time in the hospital on several occasions between 1961 and 1965. In 1965 Mr. G's physician advised him to stop all heavy work. At that time Mr. G applied for and received Social Security disability benefits. He said that the only time he received welfare assistance was during the times he was in the hospital (1961-1965).

Mr. G applied for black lung benefits in January, 1970. He was sent to a local hospital by the Social Security Administration for an examination which resulted in a negative report. Consequently, he was denied his black lung benefits. Mr. G then began his appeal by going to Beckley to be examined by the physician there. He sent the Beckley results to Social Security and received his first black lung payment in March, 1972. Mr. G stated that he did not apply for State workmen's compensation because he was in the hospital too much.

Mr. G says that State workmen's compensation is hard to get. Most people applying for compensation retain lawyers, who, in many cases, charge the miner 25 percent of the benefits he will receive for life. Lawyers are necessary to counteract the operators who may contest the claim. Mr. G feels that the operators have too much influence in making the State laws that govern compensation benefits. In order for recent black lung legislation to be effective in the future, operators will have to be made aware of their responsibilities to the miner by the Federal government.

Mr. G has known several miners with a chance to opt out of the mine to cleaner air, but none exercised the option. He himself does not believe that there is any place in and around the mines where clean air exists all the time.* In passing, Mr. G stated that outside jobs which are available for underground miners go to those miners who have seniority.

Mr. G thinks that the greatest problem in the black lung program exists

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* This statement contradicts the evidence of the Bureau of Mines; but note (1) that Mr. G retired in 1965, long before the present standards were established and (2) that he may have worked in mines that were not very clean.

in the area of medical evidence of black lung. He believes that the test centers sponsored by Social Security are inadequate. Many of these centers administer what Mr. G refers to as the "crackerbox breathing test." He thinks that the only way black lung can be effectively determined is to test a man while he is exercising. Therefore, he considers the blood-gas study test administered in Beckley, West Virginia to be the only fair test for black lung in existence.

CASE STUDY 8

Mr. H has worked 27 years in the mines of Kentucky and is 44 years old. He stopped working in March, 1967 due to a back injury and pneumoconiosis. Mr. H operated a loading machine and a continuous miner; all his work was at the face of the mine. He said that the dust was so bad that you could hardly see to work when using a 32 volt light. The foreman would tell the men to continue to work, that the dust wouldn't hurt them.

Mr. H as three children living at home. At present, he receives benefits from black lung, Social Security disability, and State workmen's compensation.

Mr. H applied for State workmen's compensation in 1966 and in the middle of 1968 he received a 15 percent disability. After paying the lawyer (15 percent of back pay) Mr. H grossed $1,700 for his disability from the State. From 1967, when he quit work, until 1968 when he began receiving State benefits, Mr. H received food stamps from the local welfare agency. He was referred to the Bureau of Vocational Rehabilitation where the counselor told him that he could not be rehabilitated, that is, his physical limitations precluded any hopes of retraining him for another occupation.

Mr. H applied for Social Security disability in June, 1967 and was turned down twice. He took his case before a hearing board and, with the aid of a friend who was a lawyer, he received his disability 14 months after the first application. Mr. H admits that his friend, the lawyer, was instrumental in getting him the Social Security disability benefits. Little difficulty was encountered in obtaining Federal black lung benefits. He applied for the benefits when the bill was enacted into law January, 1970 and received his first payment six months later.

Mr. H gathered his own medical evidence for black lung and submitted it when he applied for benefits. He went to Beckley and several other sources for examinations. He found out about black lung benefits from his physician. He also traced down his own work record. He states that he was never reimbursed for travel expenses on any of these occasions. Mr. H said that the Social Security representatives did not provide adequate counsel concerning the procedures for attaining black lung benefits.

In 1965 Mr. H, on the advice of a neighbor, went to Beckley to be examined for black lung. He was told then that he should quit working; but he continued to work for two more years. During this time, he tried to get a better job in another mine but could not pass the physical examination. At the same time,

he was told by doctors in Williamson, West Virginia that he was all right and could work. Finally, in 1966 he was told by doctors in Williamson that he had between second and third stage penumoconiosis. Mr. H then began his application for State workmen's compensation.

Mr. H cited some improvements that he thinks could be made in the existing black lung laws. First, a miner should have a greater voice in where and by whom he should be examined. In Mr. H's case, it takes an hour and a half to drive 50 miles over two-lane, dangerous, and winding roads. Second, the miners should have more say about the laws and how they are administered.

Mr. H's advice to other miners would be to not give up hope of getting benefits. They should expect to be denied the first time. They should appeal and continue to appeal until they get their benefits.

CASE STUDY 9

Mr. I is a 37 year old former West Virginia coal miner with 10 years in the mines. Prior to quitting in February, 1972 due to a back injury, Mr. I held various jobs at the face of the mines. Mr. I has three young children and a wife to support. At present, he receives Social Security disability ($193.40 month) and food stamps from the local welfare agency.

In 1970 Mr. I was examined and found to have back trouble. He then applied for and received Social Security disability for the back. He went back to work in August, 1971 and worked until he quit in February, 1972. While he was working, his Social Security was discontinued but was continued again when he quit in 1972. Both times while he was out of work and awaiting Social Security disability benefits he received subsistence from welfare. At present he has a UMWA Welfare Fund hospital card, but it will be taken away in February, 1973.

Mr. I applied for black lung benefits in January, 1970. Since then he has been turned down twice by Baltimore because his X-rays did not show sufficient evidence for him to qualify. On the other hand, a doctor to whom he was sent by Social Security, told Mr. I that he had black lung. The doctor urged Mr. I to appeal his case. Mr. I is confused over the denials he has received, because in 1970 he called the Baltimore office of Social Security and he was told that he would receive benefits. Mr. I has written his Congreeman, asking him to help speed up the claim. Mr. I feels his case is being mishandled.

In addition to black lung, Mr. I has filed for State workmen's compensation. He has a lawyer working on the case who will charge him 25 percent of the back pay he will receive. Mr. I thinks it a disgrace one has to hire a lawyer to get benefits that are rightfully his to begin with. Mr. I has not gone to the union for aid because he feels that if the doctor says he has black lung he should get his payment without going to an outside source for help.

Mr. I says that a man cannot get a job outside in clean air because no such jobs are available. He thinks that the dust level in the mines has not improved. Water is used only when an inspector comes around. Mr. I feels that the owners do not care about the miner; they only care about the coal.

Mr. I believes that there are many miners still in the mines who should not be there. Many are sick and can hardly breathe. One factor contributing to their reluctance to leave is the length of time it takes to process a claim.

Mr. I did not get medical evidence on his own, because he considered it futile to do so. He thinks the Social Security representatives have misled him about his condition. Mr. I says the people in Baltimore should visit the mines to get some idea of what the miner goes through. He also thinks the miner should have more say in how the laws operate.

CASE STUDY 10

Mr. J is a 63 year old former miner with 30 years experience in the mines. He worked under dusty conditions operating a motor most of his working career. He left the mines in 1959 because of a back injury. Mr. J applied for Social Security disability in 1961 and receives $306 a month at the present time.

Mr. J applied for black lung benefits in January, 1970 and has been denied twice since then. A lawyer has been retained to help expedite the claim. Although he knows all claims will be reviewed under the recent passage of the Black Lung Benefits Act, he will still have to pay his lawyer if the claim is approved. Mr. J says that if he is turned down for black lung again, he will hire a lawyer and try to get workmen's compensation.

Mr. J paid $45 for examinations on his own and was never reimbursed. Social Security sent him to the Williamson Miners' Hospital in West Virginia for X-rays and a breathing test. The Social Security staff has always treated him well, but they would not let him see his file.

During the time Mr. J was awaiting his Social Security disability benefits, he applied for public assistance but received none. He owned a truck which he made a little extra money with. He says that the welfare agency told him before they could give him assistance, he would have to sell the truck.

CASE STUDY 11

Mr. K is a former miner with 31 years experience in the mines. He is 58 years old. Most of Mr. K's mining career was spent as a coal loader operator, which is a very dusty job. Mr. K worked in a number of mines where his work was done at the face.

At present Mr. K receives Social Security disability for a back injury incurred in the mines. He applied for black lung benefits in January, 1970 and since then has been turned down twice. Each time he was informed by Social Security that he was not totally disabled, and therefore did not qualify for benefits. Mr. K has not applied for State workmen's compensation.

Mr. K states that he was turned down for black lung benefits by the Bureau of Vocational Rehabilitation in Charleston. (An interview with BVR representatives in Kentucky brought out the point that many miners think the BVR is turning them down for benefits, not Social Security. This, the BVR representatives thought, had adversely affected any rapport that the agency may have had with the miners. Consequently, miners are reluctant to apply to the agency for rehabilitation.)

Mr. K has been told by four different doctors that he has pneumoconiosis. One doctor became so disturbed, when he found that Mr. K was not receiving benefits for his condition, that he wrote a letter to the Social Security office on Mr. K's behalf. Mr. K said he drove to one hospital and was told he had 95 percent usage of his breathing. The same day he drove to another testing center and was told he had only 62.7 percent usage of his breathing. The test that indicated 95 percent usage was referred to by Mr. K as the "crackerbox breathing test." Mr. K called it the "biggest fake he had ever seen; a joke!" Mr. K received a breathing test at the miners' hospital in Williamson that he considered to be satisfactory.

Mr. K says that the local Social Security office has not been cooperating with him. One representative told him he was refused benefits because he was receiving Social Security disability for his back. On one occasion he was refused access to his own file. When he did see his file he felt there was enough medical evidence present to enable him to draw benefits.

Mr. K says there are men working in the mines who should not be there, because they are disabled by black lung. These men are reluctant to quit work and apply for black lung. They are afraid of being denied and being left without a source of income.

Mr. K suggests that the miners have their own facilities for black lung examinations. At present the doctors are protecting the owners' interest and not the miners. He feels there should be more competent doctors, that they should be more sensitive toward the miners' needs. He feels that if the State is ever given the responsibility for running the black lung program, it will be corrupted by the operator's money.

CASE STUDY 12

Mr. L is 45 years old. He left the mines with a leg injury in 1968 after 25 years of service. Most of Mr. L's work was in one mine under very dusty conditions. He held a number of jobs, primarily at the face of the mine. Mr. L currently receives a total of $603 from benefits awarded to him by black lung, State workmen's compensation, and Social Security disability. Mr. L has eleven members in his family, including one girl in college, two children in high school, and four children in grade school. Mr. L says he could support his family much better when he was working because he had fringe benefits, e.g., hospitalization. Presently, Mr. L cannot get hospitalization for himself but pays premiums for his family.

Mr. L applied for workman's compensation due to disability while he was still working. At that time he received a 10 percent disability; he believes that if he had been granted 15 percent disability, he would have been fired. A friend of his was granted 15 percent disability about the same time Mr. L received his 10 percent and the friend was fired. In view of this experience Mr. L said he was afraid to appeal the case. His claim was contested by the company for his 10 percent claim, but with the aid of a union lawyer he won the case. When Mr. L received his first payment for black lung benefits, he had to pay $395 back to workmen's compensation, because of an overlap in payments.

Mr. L applied for Social Security disability benefits when he stopped working in 1968. He received an 85 percent disability and was paid 10 months after application. His Social Security disability benefits were cut $100 when he began receiving black lung benefits in 1972.*

Mr. L applied for black lung benefits in January, 1970. After two years and two denials he received his first payment. He was turned down originally due to a lack of medical evidence proving that his condition was bad enough to receive an award. During these two years Mr. L received reports from Social Security containing letters from doctors who examined him. These letters contained statements to the effect that Mr. L was trying to get something for nothing. One doctor told Mr. L "somebody would have to mine the coal"; therefore, he denied him a positive report. The same physician said "in order to get Social Security you almost have to have one foot in the grave and the other on a banana peel". However, Mr. L was not discouraged, and eventually he managed to get a

* The Black Lung Benefits Act eliminates the reduction Social Security disability payments to a miner receiving both types of benefits. In addition, any amount withheld, prior to the passage of Black Lung Benefits Act, will be repaid.

statement from another doctor confirming his disability. This resulted in an approval of his claim in 1972.

Mr. L states that it is impossible to get an outside job in the mines. The company always tells those who would like a job in clean air that such jobs do not exist. When he was working Mr. L produced a doctor's slip for light work and was laughed at by the supervisor. Mr. L concludes that the company's philosophy concerning outside work away from the dust is, "if you can't do your present job you can leave"!

Mr. L says that widows go through too much red tape to get benefits. Widows depend on benefits to finish raising their families. Therefore, they should not be subjected to such difficulty to gather proof of their deceased husbands' illness. Social Security should be able to make a decision on existing files. Mr. L does not understand the problem of determining liability. (The reader must keep in mind that those interviewed maintain simplistic approaches to many of these issues, and are not aware of the problems involved in determining such things as liability.) Mr. L knows of an instance when a man was electrocuted in the mine and the company said that he died of a heart attack. Mr. L says the companies try to relieve themselves of the responsibility of paying widows and dependents their benefits.

Mr. L contends that the miners should have a voice in the location and administration of the black lung clinics. He also criticized the companies because they will work a man until he is almost dead. They should initiate training programs and hire younger people. They should be made more aware of their responsibilities toward the aging miner.

Appendix D

ACTIVE MINERS: Distribution of current miners
in five year age groups,
by the years they worked in a classified job

Table D-1

ACTIVE MINERS: Distribution of current miners in five-year age groups, by the years they worked in a classified job

January, 1971

Age Group	Total currently active miners	Years in a Classified Job									Average years in the job
		Under 5	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40 or more	
Total	104,600	26,073	10,652	7,016	9,002	15,540	14,090	10,415	6,831	4,981	18.49
%	100.00	24.92	10.18	6.71	8.61	14.86	13.47	9.96	6.53	4.76	-
Under 20	1,151	1,151	-	-	-	-	-	-	-	-	2.50
20-24	8,713	8,156	557	-	-	-	-	-	-	-	2.82
25-29	11,035	7,287	3,186	562	-	-	-	-	-	-	4.45
30-34	10,261	4,798	3,084	1,800	579	-	-	-	-	-	6.60
35-39	9,644	2,464	1,693	1,886	2,716	885	-	-	-	-	11.39
40-44	12,887	1,309	1,082	1,157	2,525	5,315	1,499	-	-	-	17.91
45-49	15,429	526	700	910	1,436	4,518	5,412	1,927	-	-	23.09
50-54	15,847	285	269	445	970	2,433	3,957	5,039	2,449	-	28.05
55-59	12,813	64	64	206	507	1,699	2,382	2,509	3,223	2,159	32.00
60 +	6,820	33	17	50	269	690	840	940	1,159	2,822	35.50

Source: Survey of Active Fund Beneficiary Coal Miners, UMWA, January, 1971.

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